

(1) 89-158

Supreme Court, U.S.

FILED

JUL 28 1989

JOSEPH F. SPANIOL, JR.

CLERK

No.

IN THE
Supreme Court of the United States
OCTOBER TERM, 1989

LOUELLA F. BENSON,

Petitioner,

v.

LT. RAYMOND HOFFPAUIER,
SGT. JAMES R. ODOM,
OFFICER RICKY FOX, all
Individually and Officially,

Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE
FIFTH CIRCUIT

LOUELLA F. BENSON
Petitioner pro se

6432 Montrose St.
Alexandria, Va. 22312
(703) 256 7595

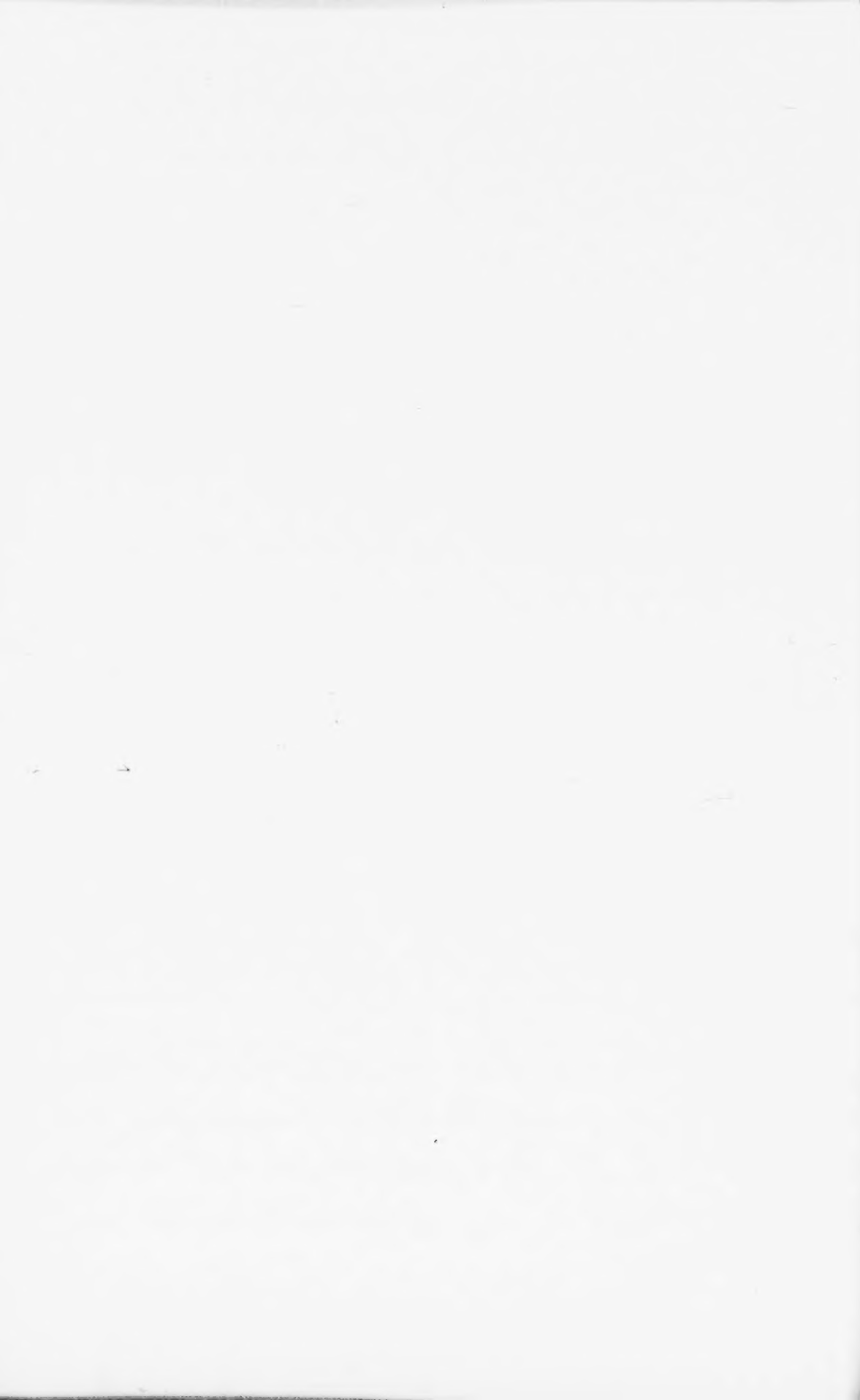
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QUESTIONS PRESENTED

1. Was it error to have destroyed the sound tapes of trial shortly after trial, knowing she was appealing in view of mistakes in transcript and denying her motion to make corrections? Was it error to dismiss supervisors?
2. Was it error to deny the tape of the pre-trial hearing which would have shown the Judge was prejudice before the trial?
3. In view of proof of phony affidavit circulated in CV86-0489 relied upon and administrative error, denial of discovery and damaging contents of order in that case which Judge Politz ruled on; should he not have recused himself in subject case after proof of all this was submitted to him?
4. Did not the above order in CV86-0489 with new proof of phony affidavit relied upon, administrative error, denial of discover, which was given to Judge in subject case prior to trial prejudice him to her detriment?



5. Was it error for the Judge to rush the Jury--the ten min. time limit for Friday, Feb. 5, 1988 as documented?
6. Did the Judge have the power to have his reporter read the options Mr. Katsaris testified to when they asked for same, and if so was it error not to do so?
7. Was it error for the Judge to preside at trial since he knew Def.Fox, congratulated him before the Jury and then refused to allow her to put him on on rebuttal, and wouldn't bringing it up before the Jury again have only called more attention to it? (The Judge had mentioned Magistrate Trimble presiding and then he wrote that he changed his mind.)
- 7a. Did the Judge err in refusing to allow her to make an offer of proof that the charges were dismissed for lack of evidence in view of the evidence and Asst.



D.A. who had never even spoken with her
damaging "secrets" on her folder denied to
she and her lawyer but which the Judge al-
lowed before the Jury?

8. Did not the Judge err in not allowing
her to file her Motion in Limine which she
had documented and then his allowing the
Ware and estate matters before the Jury,
and were not the secret processes etc., lack
of qualifications, not knowing her, reasons
to prohibit such matters before the Jury?

9. Did not the Judge err in refusing to
charge the Jury re police procedures in
view of the evidence?

10. Was it not error and most improper for
the Judge to not allow her to testify that
the defendants had read her confidential
papers in view of what she actually saw and
what is on the tape--was this not discredit-
ing her testimony before the Jury?

10a. Was Hoffpauier looking in pocket search?

11. Did not the Judge err in refusing a charge as to the reading of her confidential papers, all without warrant after Mr. Katsaris testified that readings of documents moves from an inventory to a search, and too, the fact that defendants never made the necessary list for inventory, took all papers, etc. briefcase, and they had called Def. Fox who had a camera?

12. Was it not error for the Judge to refuse to give a charge re the fact that the defendants made a secret tape of part of the incident but conveniently left off the provocations when she was stopped by Odum and when Hoffpauier first came in the act? - Was it error to enter their tape?

13. Was not excessive force used?

14. In view of the inconsistencies by the defendants, including from the very beginning, e.g., they knew who she was and were following her at least 12 mins. before Odum stopped her according to their computer runs unlike he misrepresented, the other misrepresentations,

the changes in charges, codes and time, additions not given to her 3 yrs. earlier, should not the Judge have focused more on inconsistencies instead of efforts to protect the defendants when this prose litigant attacked their credibility with the evidence?

15. Was it not error for the Judge to make prejudicial statements re petitioner before the Jury and to scold her in a condecending manner before the Jury all during the trial with the sound tapes conveniently destroyed?

16. Was not the Judge's prejudicial statements re her expert error?

16.a Did not the Judge err in denying her motion for a mistrial after she rested her case in view of his prejudicial statements in his sealed report before he even heard the defendants' evidence while ignoring hers?

17. Did the Judge err in denying her post-trial motions for new trial, etc.; did the Fifth Cir. err in denying such motion and not allowing her filings, ignoring evidence?

18. In view of recent studies by psychologists and lawyer, Dr. Melton in 1988 of the Executive Committee of Law and Psychiatry Society published: "only when they have a scientific basis for opinions, should the opinions of psychologist, psychiatrist be allowed"; did not then the Court err in allowing label before the Jury by totally unqualified witness who does not know her, secret processes, and was did not very damaging to this prose litigant?

19. Was it not error for the Judge while scolding her and asking "why didn't you get a lawyer" and then refusing to let her answer other than I am glad you asked that Your Honor, and especially in view of the fact that the evidence shows that^{when}/she had a lawyer, the Asst. D.A. denied it and talked to her personally for about a min.on 9/19/84 as testified to by her husband?

20. Were Miranda rights violated in not letting her call a lawyer until it was all over although there was phone near street;



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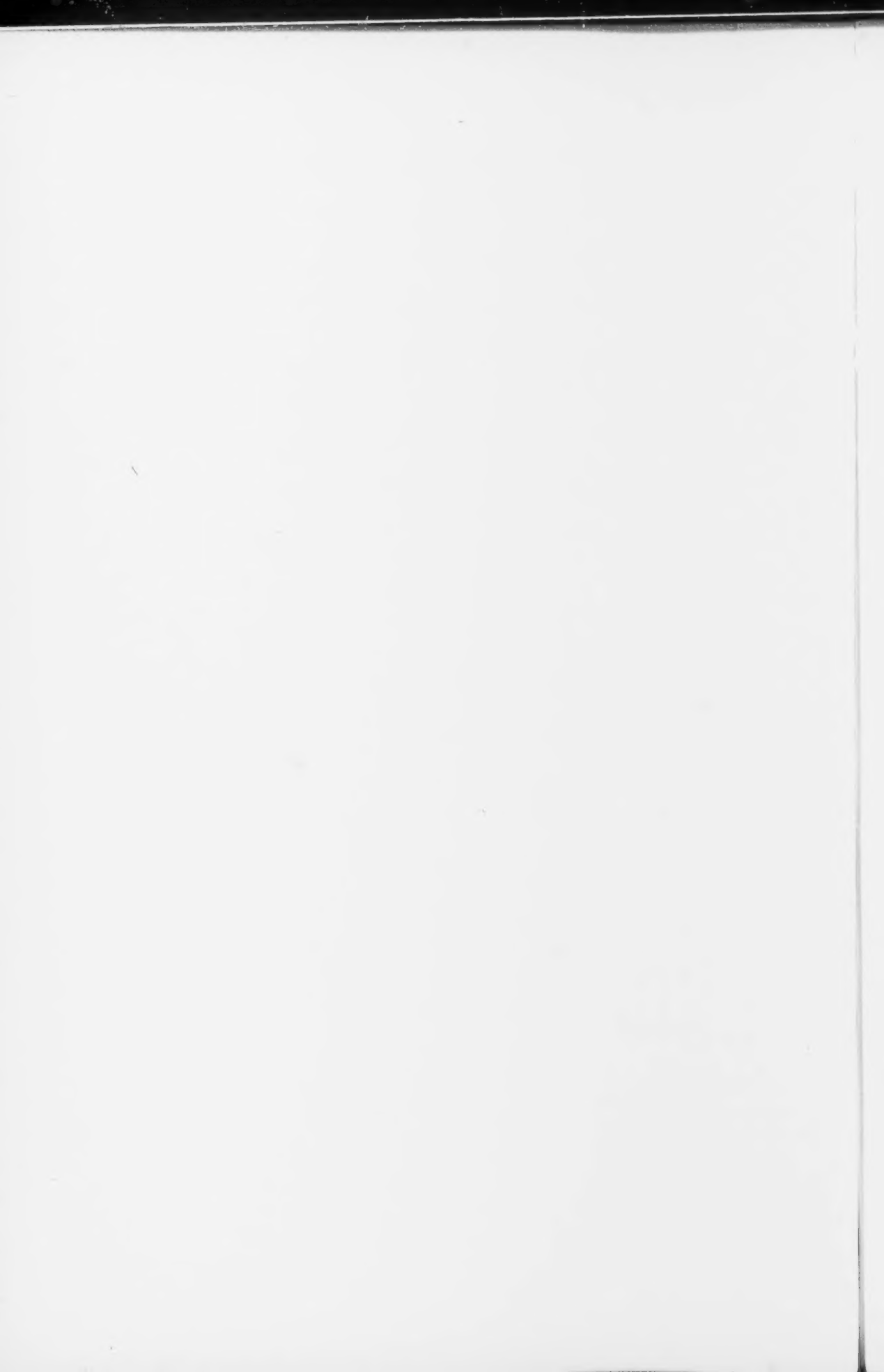
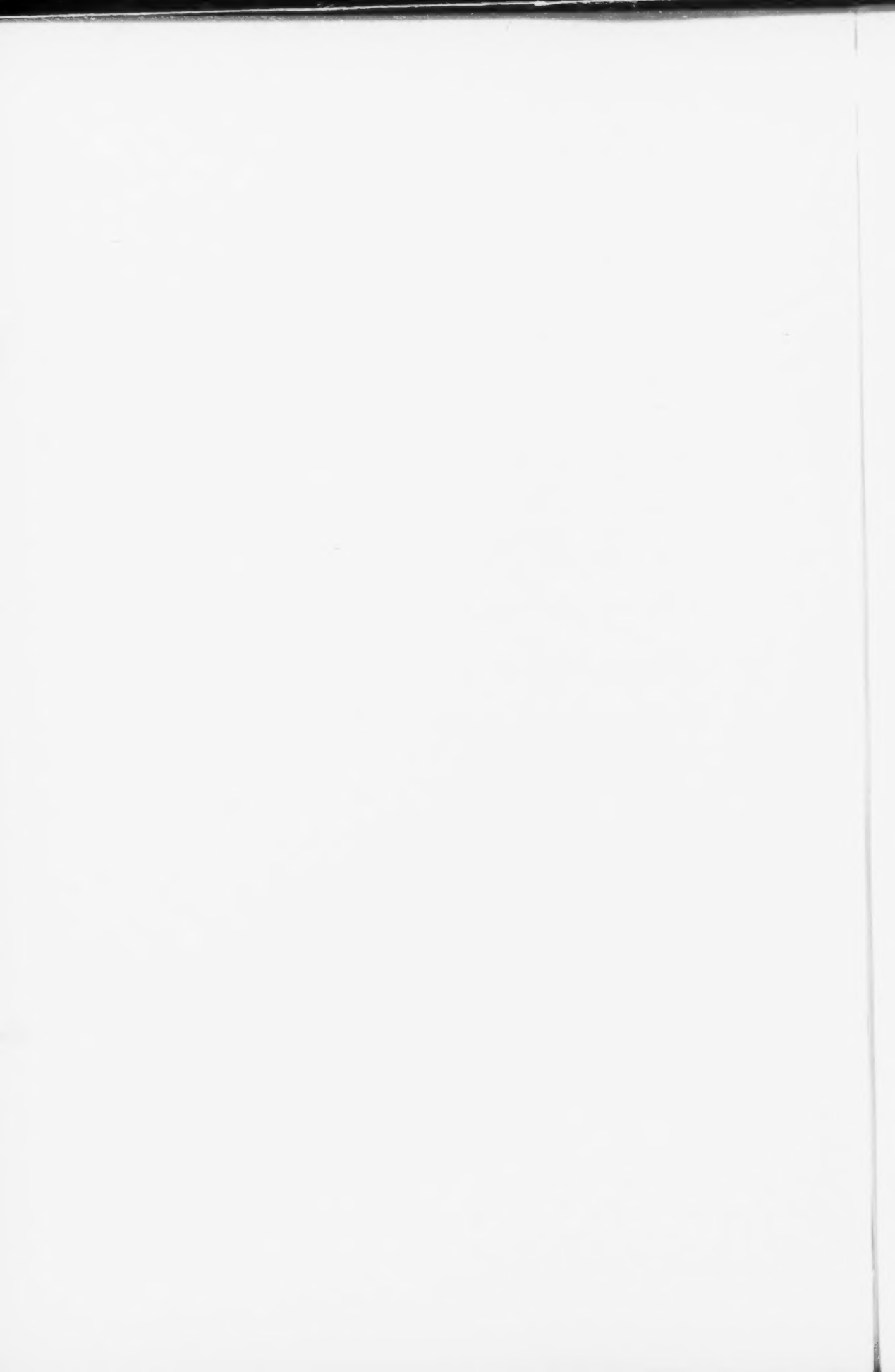


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PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

TO: The Honorable Chief Justice of the
United States and the Honorable Asso-
ciate Justices of the Supreme Court
of the United States.

The petitioner respectfully prays that
a writ of certiorari issue to review judg-
ment and opinion of the United States Court
of Appeals for the Fifth Circuit, including
entry of May 1, 1989, rulings of April 4,
1989, and all lower Court rulings reprint-
ed in the Appendix at A-4 to A-18, re sub-
ject case concerning the matters from the
U.S.District Court for the Western District



of Louisiana, Lake Charles Division, No.85-1239.

OPINIONS BELOW

The opinions and rulings of the Court of Appeals for the Fifth Circuit reprinted at A-4 to A-14, which review the District Court's rulings reprinted in the Appendix at A-14 to A-19.

JURISDICTION

The Fifth Circuit Denied Plaintiff's Petition for Rehearing on May 1, 1989. This Petition for Writ of Certiorari is being filed timely. This Court's jurisdiction is invoked pursuant to 28 U.S. C. § 1254(1) etc.



CONSTITUTIONAL PROVISIONS, STATUTES
AND REGULATIONS INVOLVED

First Amendment to the U.S. Constitution
and 42 U.S.C. Section 1983

Fourth Amendment to the U.S. Constitution

Fifth Amendment to the U.S. Constitution

Sixth Amendment to the U.S. Constitution

Eight Amendment to the U.S. Constitution

U.S. Privacy Act of 1974;

U.S.C. 28 Section 1331; 42 U.S.C. Sec.1983

Louisiana State Constitution and laws of
the State of Louisiana, particularly but
not exclusively La.Civil Code Articles
2315, et seq.

F.R.C.P.

Statement of the Case (Factual)

The Amended Complaint in subject case is reprinted at A-20-A-44. As shown in Amended Complaint and (prior complaint filed on 5/3/85) plaintiff alleged civil rights violations, etc. against the three defendant La. State Troopers and their supervisors. Trial on the merits commenced on Feb.1,1988. On 2/5/88, following the unconscionable matters and proof shown in Statement of Fact and Appendix, rushing of Jury, distortions, discrediting etc., the Jury found for remaining three State Troopers after their supervisors were not allowed to be sued. Notice of appeal was very timely filed but the sound tapes were destroyed, corrections not allowed! Plaintiff paid \$3,000. for transcript.

On May 4, 1984, petitioner and her husband travelled from Virginia to Houston, at which time her husband went to a family function in Texas and petitioner went to Louisiana in a rented car to take care of legal matters re her farm in St. Landry Parish. On her way, at

about 5:30 p.m. she hand-carried letter at A-87-90 (on the day before arrest in this case) to the Sheriff of Crowley, Acadia Ph. re a problem she had been having with Deputy Bearb of that parish, her brother-in-law, who on March 23, 1984, after trespassing on appellant's property he was trying to obtain, accused her falsely of "forgery etc.", and assured her that "they were working on it and she would be nailed". Deputy Bearb had a badge recorder/walkie-talkie. As shown at A-90, the letter petitioner hand-carried on 5/4/84 was signed for by former Deputy Zaunbrecher but it has been strangely missing from police files. No investigations were conducted by the Acadia Parish police inspite of petitioner's written request. Note at A-68 in CA 84-2540, where Deputy Bearb's counsel published that Deputy Bearb's affidavit "was discarded as useless by counsel for defendant since it did not contain specific allegations of facts."

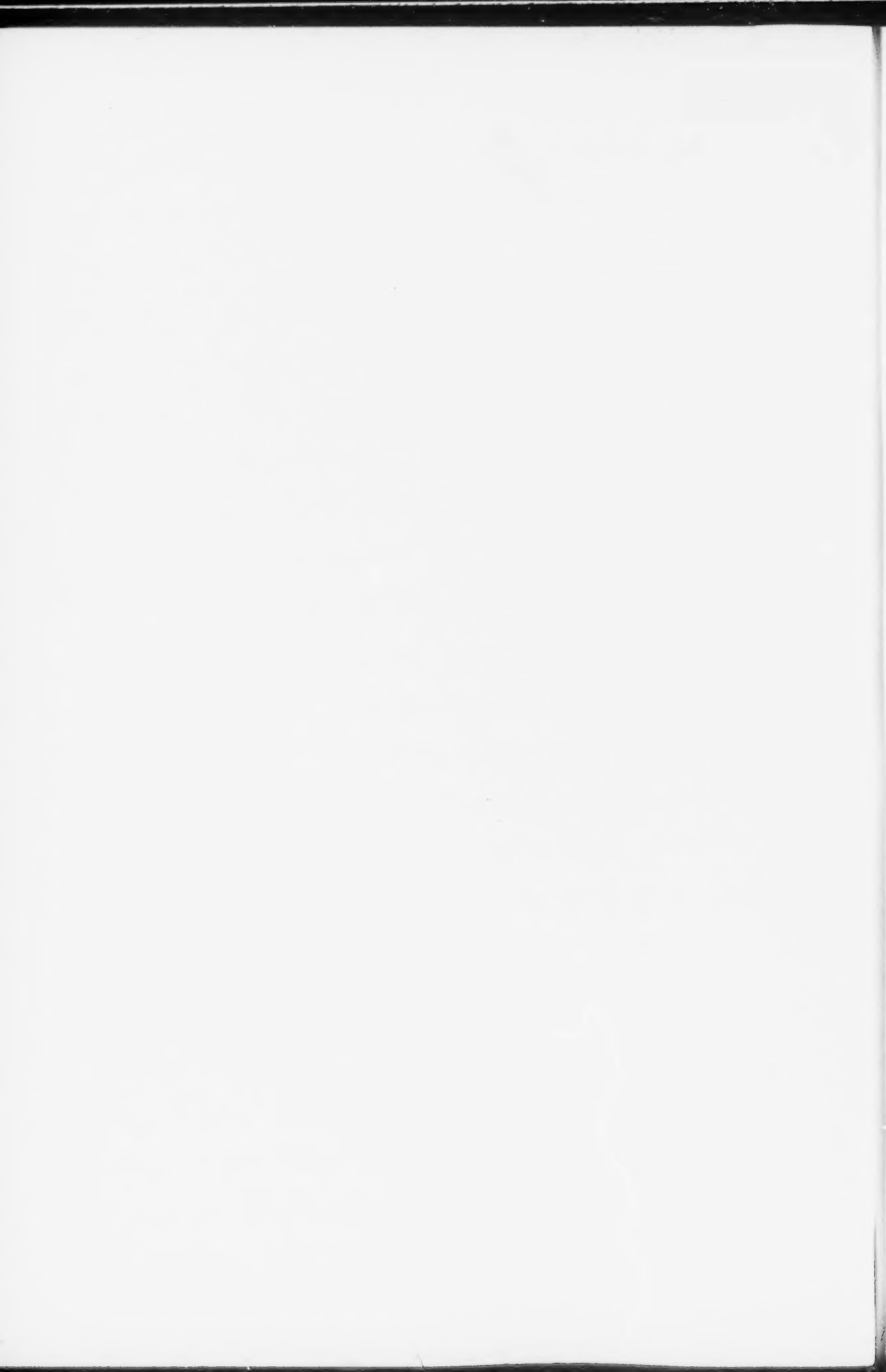


On 3/23/84, petitioner immediately reported Dep. Bearb to the St.Landry Parish police, and when Dep.Bearb was contacted by Officer Guillory of St.Landry, Dep.Bearb threatened "to slap" petitioner and indicated that she was crazy. In 1985, Deputy Bearb, et al and his counsel circulated the phony affidavit shown at A-81 to A-83 (see her rebuttal affidavit at A-84-92) as former Deputy Gibson's affidavit to try to make her look crazy and railroad her to take her property but as shown at A-78-80 on July 7, 1988, Mr.Gibson who does not know petitioner swore under oath

"I have at no time ever made any statement, sworn or otherwise, regarding the mental condition of Louella F.Benson. I have not submitted any reports, affidavits or any other type of information to Glenn A.Ally, Ph.D."

Petitioner submitted evidence in that case to show that the phony 1985 affidavit to make her look crazy had been submitted to Glenn A.Ally, a Lafayette psychologist who does not know her, by Dep.Bearb et al and his counsel and which Ally relied upon--all discovery denied by all.

See Judge's Order at A-93 in that case but petitioner has not received any replies by opposition. Petitioner testified under oath that she had never committed forgery nor any crimes nor had she ever indicated such a thing to anyone, and she was denied discovery re the false forgery which Dep. Bearb too had kept secret from her for many years. In his answers the word "forgery" was changed to "perjury". Deputy Bearb indicated that petitioner had received mental treatments and he was concerned about what she had in her brief case when she went on her farm in La! Petitioner testified that she had objective scientific facts from the proper professionals to show that she does not have the mental problems and does not need treatments after she volunteered for complete mental evaluations and psychological testings after a heart injury (prominent septal depolarization) had been ignored by government and police affiliated doctors after she became ill in the now condemned LaSalle Bldg. in D.C. See excerpts



from "Spooks" by Jim Hougan re LaSalle in 1978 in pre-trial record. See her husband's affidavit at A-67.

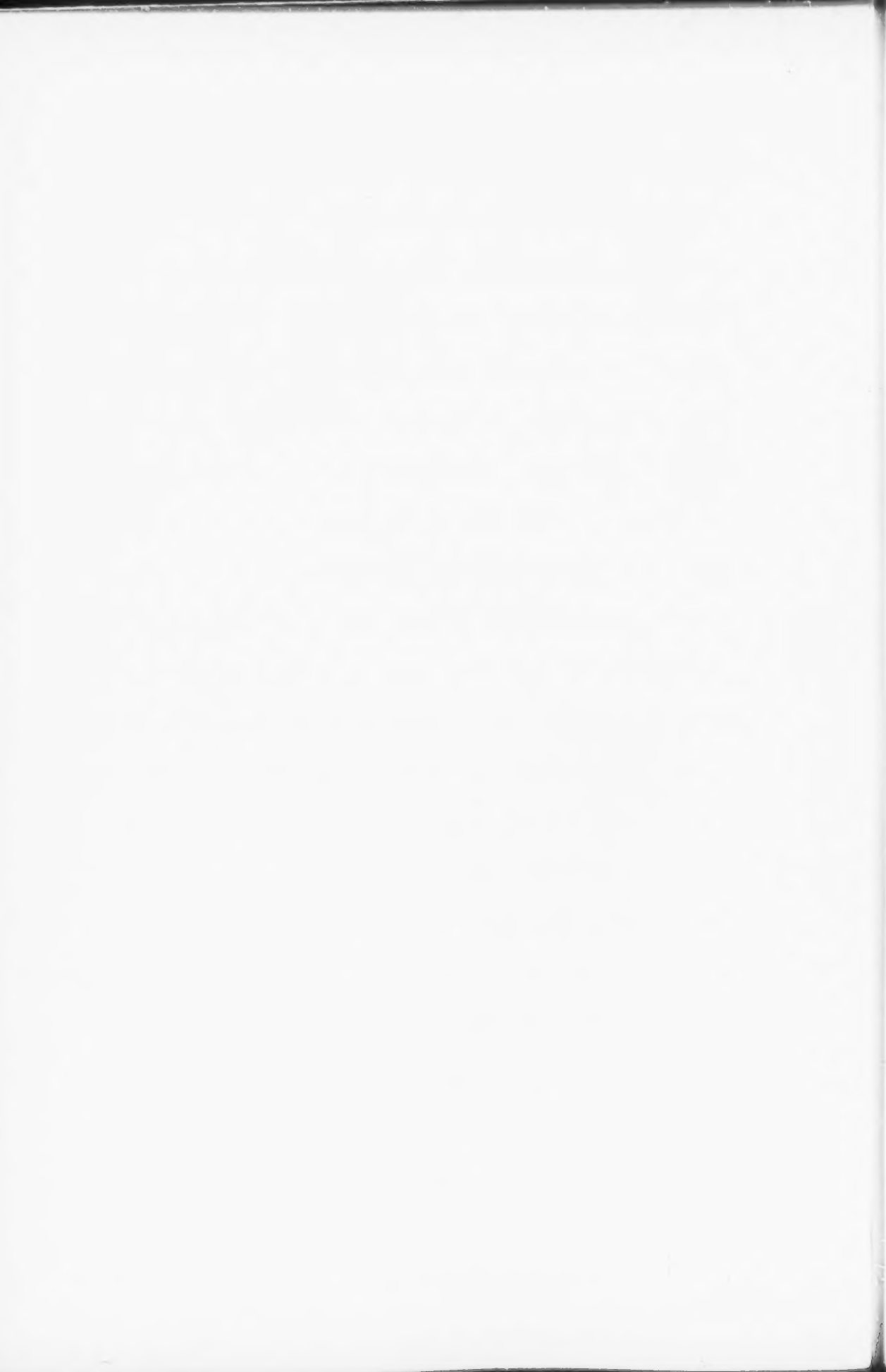
On the day of the arrest petitioner had found barbed wire at the entrance of the "new dirt passage" Dep.Bearb created after he had ignored her rights, destroyed the Faul Limestone Road and "covered-up the drainages." Dep.Bearb's wife, Lois F.Bearb and Leslie Faul agreed underoath that petitioner had access to the road and the amount of land in "new road" is missing from estate. Petitioner was left with flooded contaminated property without road inspite of losses she took for use of road. Although Lois F.Bearb was not present during her husband's actions on 3/23/84, on 3/20/85,Lois F.Bearb said underoath and bragged:

"She hand delivered a letter to the Sheriff's office packed with lies to try and have him fired. That same night she was arrested by the Lake Charles Police Depart. and brought to jail."

A-95-A-98 are interrogatories Lois F.Bearb and Leslie Faul refused to answer.

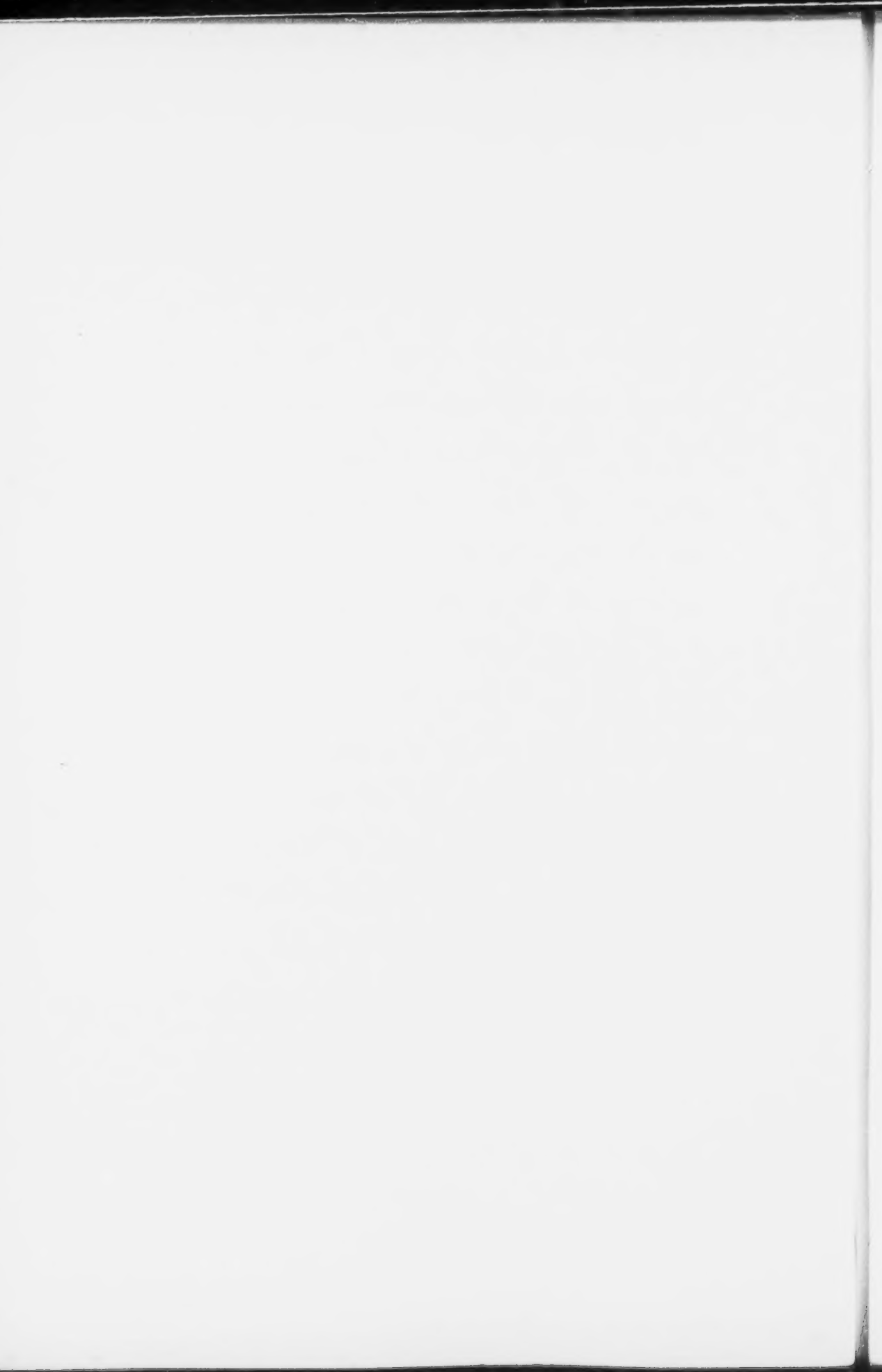


Facts show that counsel for Dep.Bearb et al failed to copy petitioner with distortions and misrepresentations given to the Court in both CV84-2540 and CV84-2541 prior to rulings adverse to petitioner and infact, prior to summary judgment for Dep.Bearb without a hearing, although the Judge admitted that there were damages to petitioner's reputation. The Fifth Circuit affirmed but without prejudice to a state tort claim, which petitioner filed and had obtained a judgment of preliminary default re Dep.Bearb, but exception of prescription has now been used to dismiss in State Court. Counsel for Dep.Bearb et al admitted that the Supreme Court had been briefed by both parties in CV86-0489 but petitioner was not copied nor informed of what was furnished the High Court. In CV84-2541, although was not allowed to go into material misrepresentatons at trial, their counsel resubmitted the prior secret misrepresentations with post-trial brief and which Court copied from in decision, although crucial misrepresentations not in evidence!



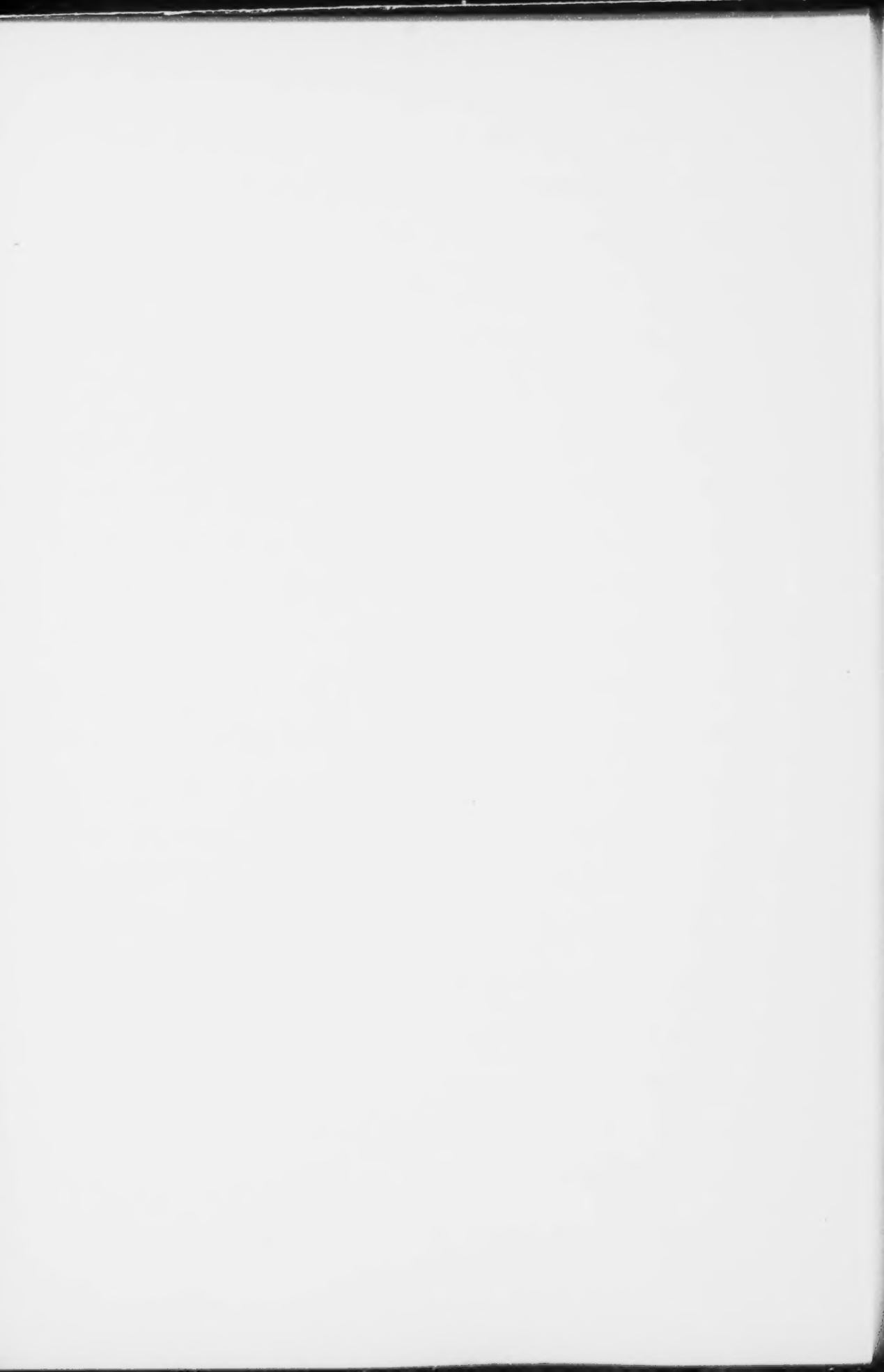
STATEMENT OF FACT

In CV86-0489 where there is now evidence of phony affidavit circulated to make petitioner look crazy and take her property, the Fifth Circuit denied her motion to be copied with information denied to her, and she was denied absolutely all discovery, including for years of secret processes and hearsay misrepresentations of many yrs. ago. In spite of that the Fifth Circuit's decision in that case was given to the trial Judge in Lake Charles in subject case prior to trial and which was why he was so very prejudice towards petitioner. See A-100-105 for Fifth Cir. decision of 7/27/87 given to Judge Veron in Lake Charles later in 1987. Note that Judge Politz ruled in that case also as he also ruled in subject case, including on Petition for Rehearing after she requested recusal. See A-6 and A-7-14 attached. See also A-99 ruling in same case CV86-0489 by Judge Politz of 8/10/88 showing appeal



was dismissed because an "order which disposes of fewer than all defendants is not appealable without a certificate...F.R.C.P. 54(b). The same was true in 1987 in same case as above shown but inspite of phony damaging information circulated re petitioner, including in subject case and denial of discovery, it was appealable in 1987! Too, the Fifth Cir. refused to allow her to supplement the record in all related cases after she was finally copied with some of the misrepresentations filed. Thus the Fifth Cir. and most certainly Judge Politz who ruled in this case had been prejudiced prior to this case.

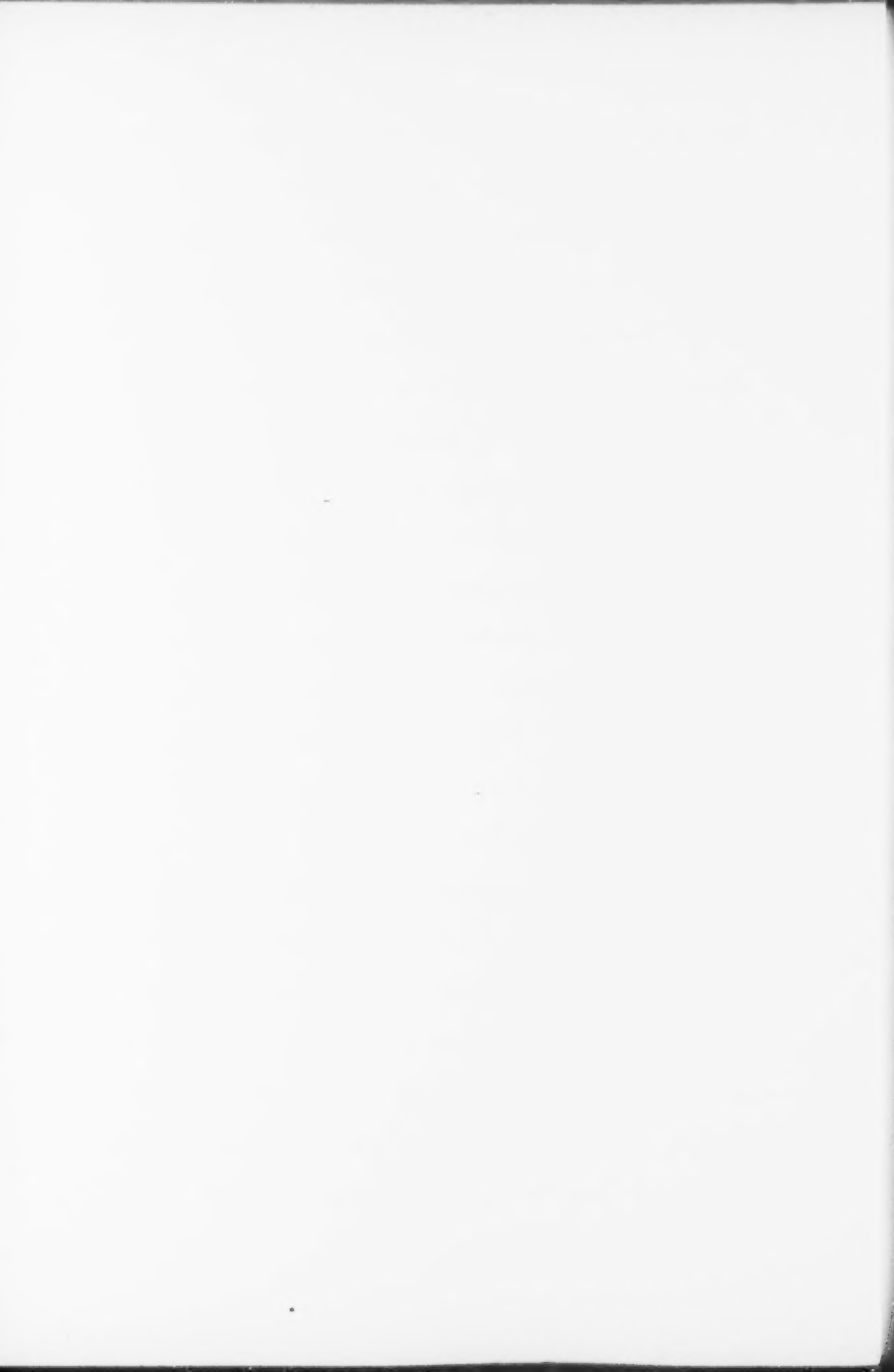
The record in subject case is replete with incidents showing that the trial Judge was extremely biased, including prior to trial. At a pre-trial discovery hearing on 7/30/87, the Judge allowed opposition to give a distorted view of what transpired, which was very false, e.g. such as plaintiff running in the path of oncoming traffic, but refused to allowed her to rebut the truth,



but stated that this "case is like a tough piece of meat, the more you chew on it the tougher it gets". The Judge also stated on 7/30/87 that she was certainly going too slow, and as shown herein the real facts show that she was not going too slow.

Plaintiff was alone and pro se at the hearing, the Judge sounded cross at one point and she was afraid of being disrespectful but was concerned then. As shown at A-74-75, petitioner tried to buy the transcript of the hearing of 7/30/87 but was not able to. Petitioner very much remebers the steno machine and the notes being taken.

Too, as shown at A-106-108, she informed the Judge also on March 4, 1988 by copy of Notice of appeal, plus the post-trial motions and her motion for a mistrial after she rested her case reprinted at A-116 to A-122, documented some of her complaints, etc. with intentions of appealing. However, the sound tapes of the trial were promptly destroyed!



Additional Reasons to Grant Writ

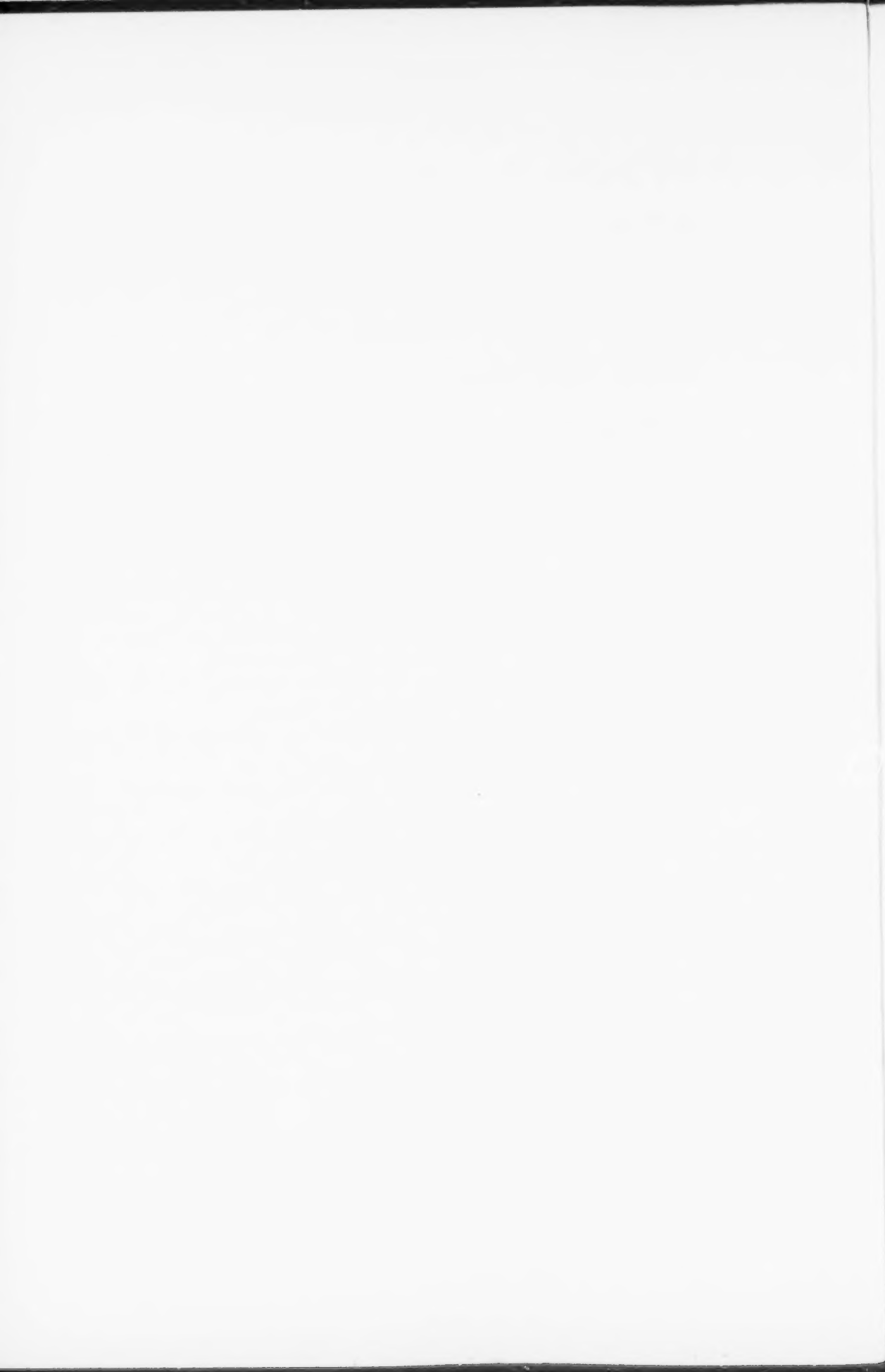
Plaintiff has been informed that such tapes cannot be destroyed. The record is replete with crucial mistakes. See A-61-66, her Motion to make Corrections in Transcript and for Sound Tapes, which the Judge denied but fails to say the sound tapes were destroyed as she was verbally informed by the Judge's reporter. See A-70-71 where she arranged on 3/11/88 to pay reporter \$3,000. for transcript. For example Vol. 1 L-3-6 of the transcript when she was trying to file her Motion in Limine to avoid more abuses (See A-45-60 which she was not allowed to file), the transcript is very wrong:

"Your Honor, I am not sure I really made my point, The reason for the motion, as far as the other cases, is that there were problems with the state. They have attacked my problem."

What petitioner said was that there were estate problems and they have attached my property. As shown in her Motion in Liminie and also in her testimony from the stand later during trial, she testified that her family had attached her property in 1987,

and A-57-A-60 attached to her rejected Motion shows they had planned to obtained prior to suing her in 1983 to keep her from bidding on the property of her deceased parents. The erroneous state attacking her problem fit in with the unconscionable actions of the defendants.

Unlike the Fifth Cir.'s opinion states in opinion at A-8, the hard facts show that on May 5, 1984, defendant Sergeant James R. Odum, a trooper-psychiatric-nurse with La. State Troopers was following petitioner on Interstate 10 and she was in her rented car driving towards Lake Charles on U.S. 10 on her way to Texas to join her husband to return to Dulles the next day- see A-134-140. Petitioner testified that she noticed police behind her at certain points between Lafayette and Lake Charles. The hard facts show that the C.C. Def.Lt. Horfpauier, who later arrived laughing on the scene, testified at TR-555 reprinted at A-200 that he bought a



tape on 5-4-84, which was the same day she hand-carried the letter of complaint to the Sheriff of Acadia Ph.La. re her Deputy brother-in-law who had political influence at that time. See A-200 where Lt.Hoffpauier testified also that he dated the tape "it looks like 5-4-84, I have on it," "I have Lou Benson written on the other side." Petitioner testified at TR 45-50, (A-134-40)

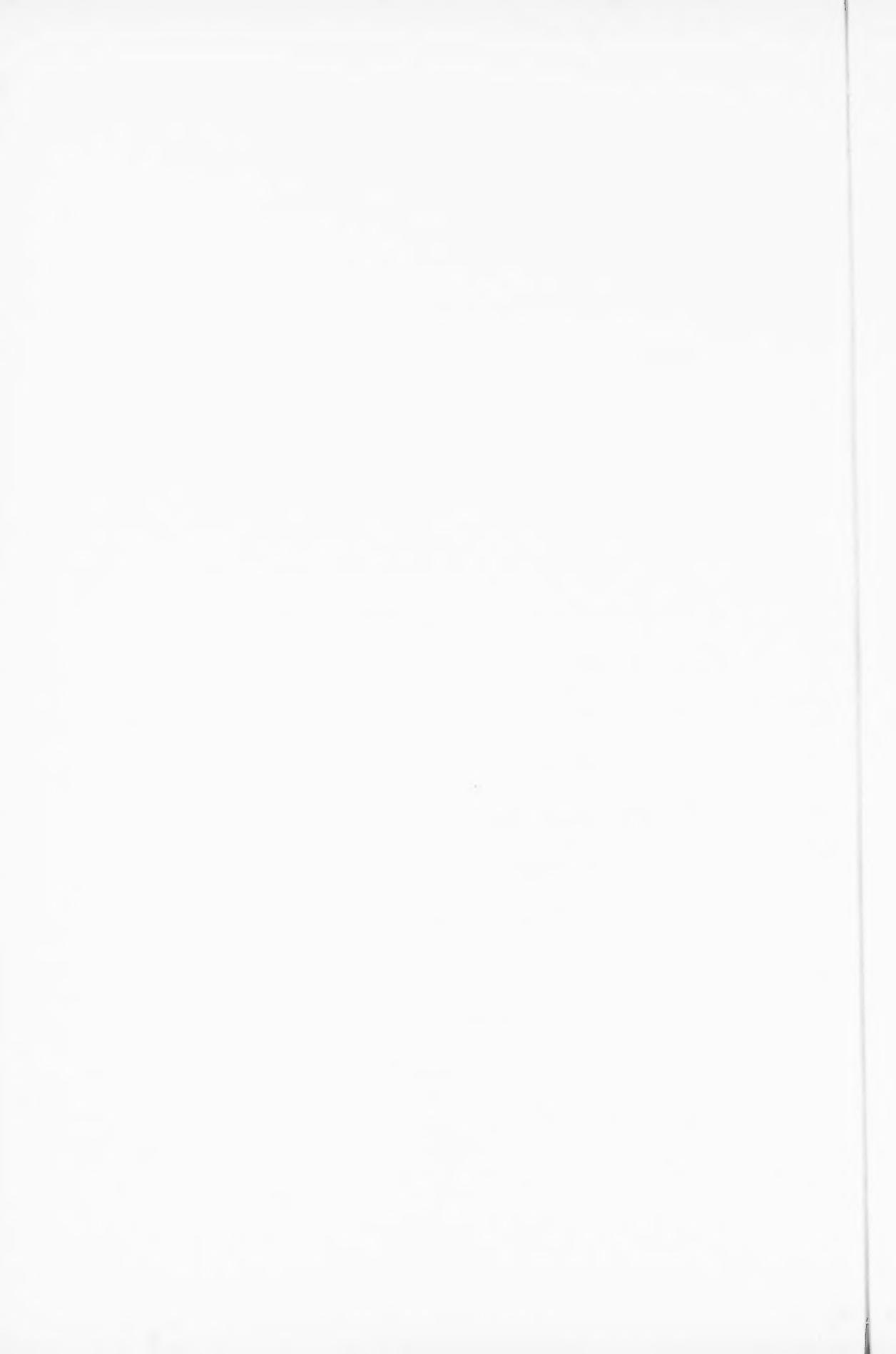
"On May the 4th,1984, my husband and I traveled from Virginia to Houston, and my husband stayed in Texas to visit relatives, and I came to Louisiana to do some work on the farm. I bought the old house that belonged to my parents, and I had a lot of work to do there. And on the 5th of May, I was returning towards Texas, with the intention of joining my husband in Houston the next day to travel back to Virginia on Sunday, which was May the 6th. And I drove through Lake Charles, and at the time, I had a sister who lived in Sulphur, and I had thought that I would stay with her overnight, and I was on the right-hand lane, and I changed my mind, and I decided that I would go on to Texas....."

Note at TR46 A-134, she expressly testified:

"So I looked behind me and gave the signal.

I noticed that there were no cars. and I got in the left-hand lane...and without exception

when I cross a lane, I look behind me. I don't only look in the mirror, I look behind me. And there were no cars. And I drove on, and a little bit later, I heard a siren, and I was sure that it was an ambulance, that there was some kind of emergency...so I gave the signal, looked behind...I saw the flashing lights, I gave the signal and got back to the right, and I got to the shoulder away from where the traffic lane is, into the shoulder and I parked. And the next thing I knew, Def. Odum, Officer Odum, appeared at the door of the car and he hollered at me. He shouted at me very loudly, to get out of the car. Well, I put the window down, and I was obviously, very frightened, I put the window down, and I told him that I had taken my shoes off..TR48 (A-137) I had the window down, and I told him I would get out of the car, but I had to put my shoes back on. And he saw what I was doing, because he opened the door of the car...you have to use your hands the way those straps are made."



Petitioner testified at TR48 (A-137):

"And then he asked me for my license. I gave him my licence, which had my name, and I pointed out that that's where I lived, which is the same address where I live now. It is 6432 Montrose. And I got out of the car and he had me walk on the side of the car. He told me that I was going too slow, and that he was looking for drugs and weapons. And I told him that I had never gone near drugs, and I never owned a weapon. Then he asked — me if I had anything to drink. And I told him, No, that I drink, actually, very little because I happen to have a heart condition.. And I had parked the car in the, on the shoulder, and there was ample room there. He had me walk on the side of the car to see ...if I could walk straight..and I did.And then he asked me if he could search my car. And I told him, No, because I did not have drugs or weapons. And I did tell him that I had had a malt before leaving Lafayette, a vanilla malt. I still had the container

in the front seat. And I showed him that. And he appeared to be unhappy because I would not let him search...And I asked him if he had, if he felt that I had committed a violation, to give me a citation, and he would not do that. He said that he would have to wait." As reprinted at A-210, petitioner testified:

"I did say I was married to a prominent man, but for no other reason than after he had asked me if I had drugs or weapons, I simply told him that to let him know that I was not the type of person to have drugs or weapons, I had been working on a home to make it ready for women and children, a private home."

As reprinted at A-211, she testified, "... And I did not know what I had done wrong. I was very frightened, but I did get out of the car."

As shown at TR 506-09, (A-141-143) Officer Odum's attorney accused her of harrassing, irrelevant when she asked Odum if he was under the influence of drugs or alcohol at the time of the incident, and after the question had to be repeated, he said "No."

When asked "if he had ever taken any drugs" he answered "Well--", and admitted to taking antihypertensive medication (she thought he had said at time of incident) Too, he testified "I don't recall it. No." when asked: "I believe you testified on Oct.9,'87 that no cars tooted at me..."

To as reprinted at A-193, petitioner asked Mr. Ken Katsaris, her highly qualified police expert who reviewed depositions and all pertinent matters as he so testified,

Q. "Mr. Katsaris...in your review of Officer Odum's deposition, when I first took his deposition and asked him what he meant by erratic driving? Do you recall that his first response was that she was driving too slow?"

A. "Yes. That's what he responded, I believe, Yes, Ma'am." See A-115

At trial at TR 432, L-19 she asked Def. Odum:

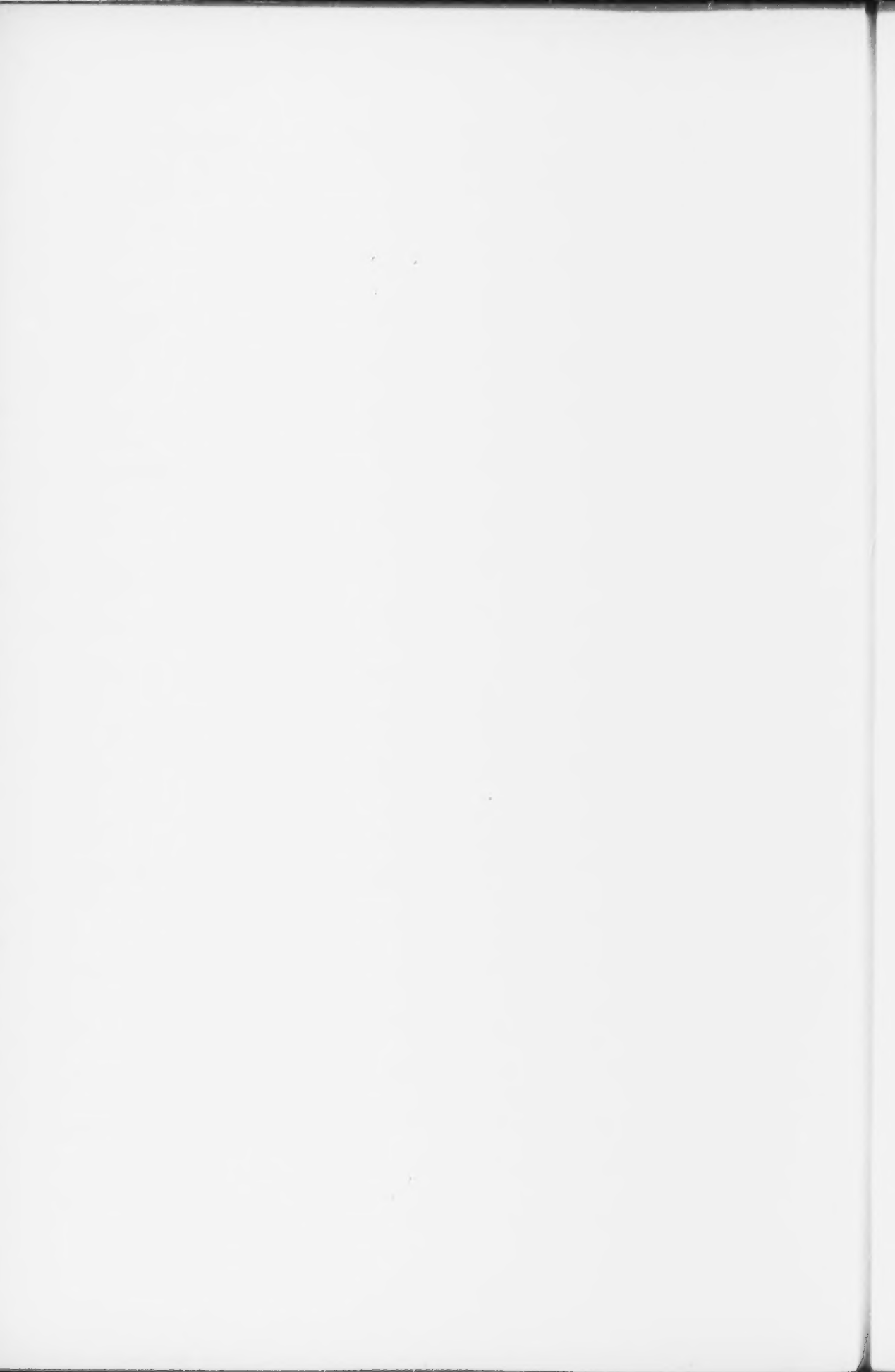
Q. "Mr. Odum, do you admit that on Oct. 9th, 1987, when I asked you what do you mean by driving erratically that your response was you were driving at a speed less than the posted speed? And the next Question was: What



Speed was I driving? And your response was: Between forty and forty-five miles per hour. Do you admit that you testified to that under oath?"

A. "That sounds like it. Yes."

It must be pointed out that just as she was about to impeach him there was a very unusual loud noise, and the Judge interrupted to inform that he would check to see if there was a fire in the building. The Court said "I am told that is the fire alarm. It is an unusual one." underscore added. The Jury was distracted. Two things, this was inconsistent with Odum's testimony that she was weaving at 427; opposition objected before she could finish her statement (twice). Also at TR 194, L-9 Mr. Katsaris testified that the minimum speed on the bridge in La. in 1984, "it would be forty", and that the maximum "that was fifty miles per hour", reprinted at A-187, and Odum also admitted this under oath. Thus petitioner was not going too slow; her speed was proper. She testified that she did not note her speed; Def.Odum shows "M.P.29" on citation which she later learned was mile post,



but the Jury was distracted with the strange alarm. (Too, at pre-trial hearing the Judge too was convinced that she was going too slow but that was before Def.Odum admitted in Oct. 9,1987 deposition that she was going 40-45 and which was most proper--and it was only then that plaintiff knew her speed was 40-45 mph and that the 29 was for milepost.)

The Judge's scolding petitioner before the Jury and his condescending, prejudicial remarks towards her and the "unusual" alarms distracted the Jury but the evidence is there. Infact, the evidence shows untruths by the defendants from the very beginning. When Def. Odum was asked underoath:

Q. "Prior to the time you were like seven (7) car lengths behind me, where were you? Were you on the road, on the highway...?"

A. "No, ma'am. We were on the bridge when I first saw you."

Def.Odum testified: "I was on routine patrol on Interstate 10, westbound, and I had just came upon the I-10 Bridge at Lake Charles, and I observed the vehicle, later that I identified to be operated by Ms.Benson.."



The trooper defendants' own computer runs show they are lying and which she entered as trial exhibits Nos. 21 and 22, and reprinted at A-55 and A-56. Note that through her rented car, the defendants identified her before they even stopped her. Note the military time on the first computer run was 23:23 05 May 84 and when you subtract 12:00 you get 11:23 p.m. Note at plaintiff's Exh. No. 6-c in record,

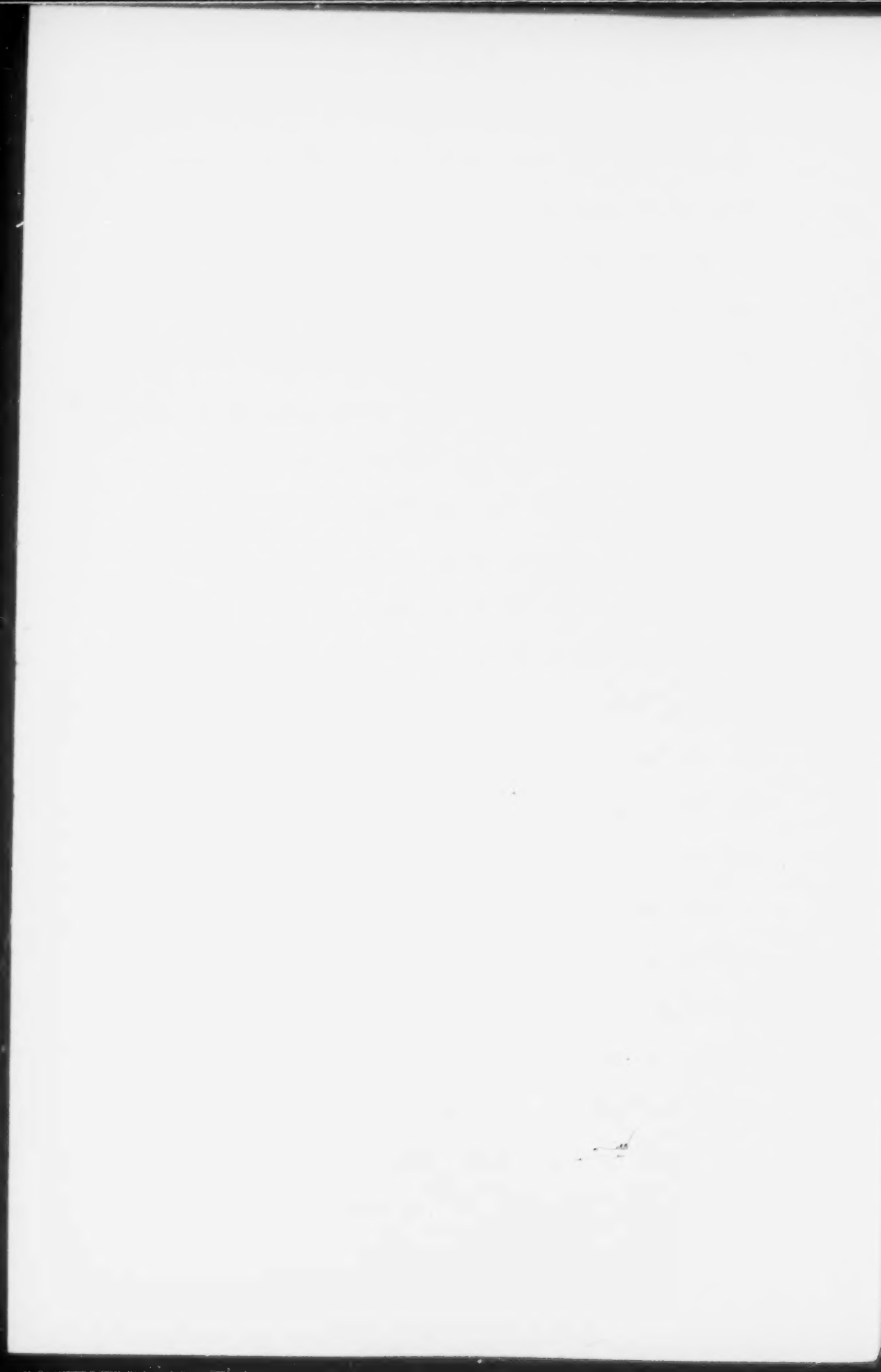
the first citation issued to her was a 11:35 p.m.; thus they knew who she was from her rented car at least 12 minutes before they stopped her and Def. Odum is lying again as in the lie about her going too slow. Even at 40 mph 3 min. would be more than ample to cross the Lake Charles bridge and Odum testified "we were on the bridge when I first saw you." As verified at A-115 and at trial Def. Odum testified that he had her under surveillance for "a minute or a minute and a half" only. (Please see A-123-8 testimony of JLBenson.) (Please see A-174-196 testimony of K.Kasaris.)



It simply does not make sense. As reprinted at A-207-8 petitioner testified: "I would like to testify about an exhibit that I questioned Def. Hoffpauier on during his testimony, and that is the computer runs that they obtained on May 5, 1984. That's the night that I was stopped. Now, Officer Hoffpauier testified that his signature had inadvertently gotten on those two computer runs by a carbon copy in his office when he was doing administrative work. Their evidence, showed that they stopped me at 11:35 p.m. on May 5 of '84. They are both signed by Officer Odum (Hoffpauier) dated May 5, '84..and by the time I was taken to jail, it was May 6, 1984." Note petitioner's Exhs. 21 and 22, the computer runs entered and reprinted at A-55 and A-56 show they were signed and dated by Def.Lt. Hoffpauier on 5 May 84 and by the time they took her to jail it was 6 May 84 so the real facts do not support his story, but petitioner was so discredited by the Judge's actions and the phony secret



diagnosis by the Asst. D.A. who did not her that her evidence was just ignored. At TR 581 Def.Lt. Hoffpauier identified the computers runs found at A-55 and A56; at TR 582 he admits that Lieutenants have to sign those forms and he even admitted that his signature are on those forms with date of May 5, 1984. Lt. Hoffpauier testified that the computer run P-22, A55-56, was at "11:23 p.m." on "5 May 1984" and that it shows "no record" and at TR 588 L-14-15 he admits "Yes, I will say it identifies you," in referring to the computer runs and at TR 589, Hoffpauier admitted Odum had her driver's license before he arrived "I believe he did", Note that at TR 622 when she actually showed that Lt. Hoffpauier was lying because he had dated the computer runs May 5, 1984, showing that she was identified sometime before they even stopped her (12 mins.) and that by the time they took her to jail it was May 6, L-21:"You would not have been



doing administrative work during the rest of May 5, 1984 would you, because it was gone by the time you took me to jail"?

The Judge was very angry at this question that incriminated Hoffpauier and she was again humiliated for bringing up facts.

At TR 570 Lt. Hoffpauier admitted one of Def. Odum's inconsistencies at trial, that Odum said she had asked for a citation and then testified she had refused citation L-15 "I heard it. Yes, Ma'am. As shown at Tr 564 Defendant Hoffpauier again lied after the tape was played at trial, L-2-8 his counsel:

Q. "Mr. Hoffpauier, does the tape that we just heard accurately depict the events of the evening of Ms. Benson's arrest?"

A. "Yes, Sir."

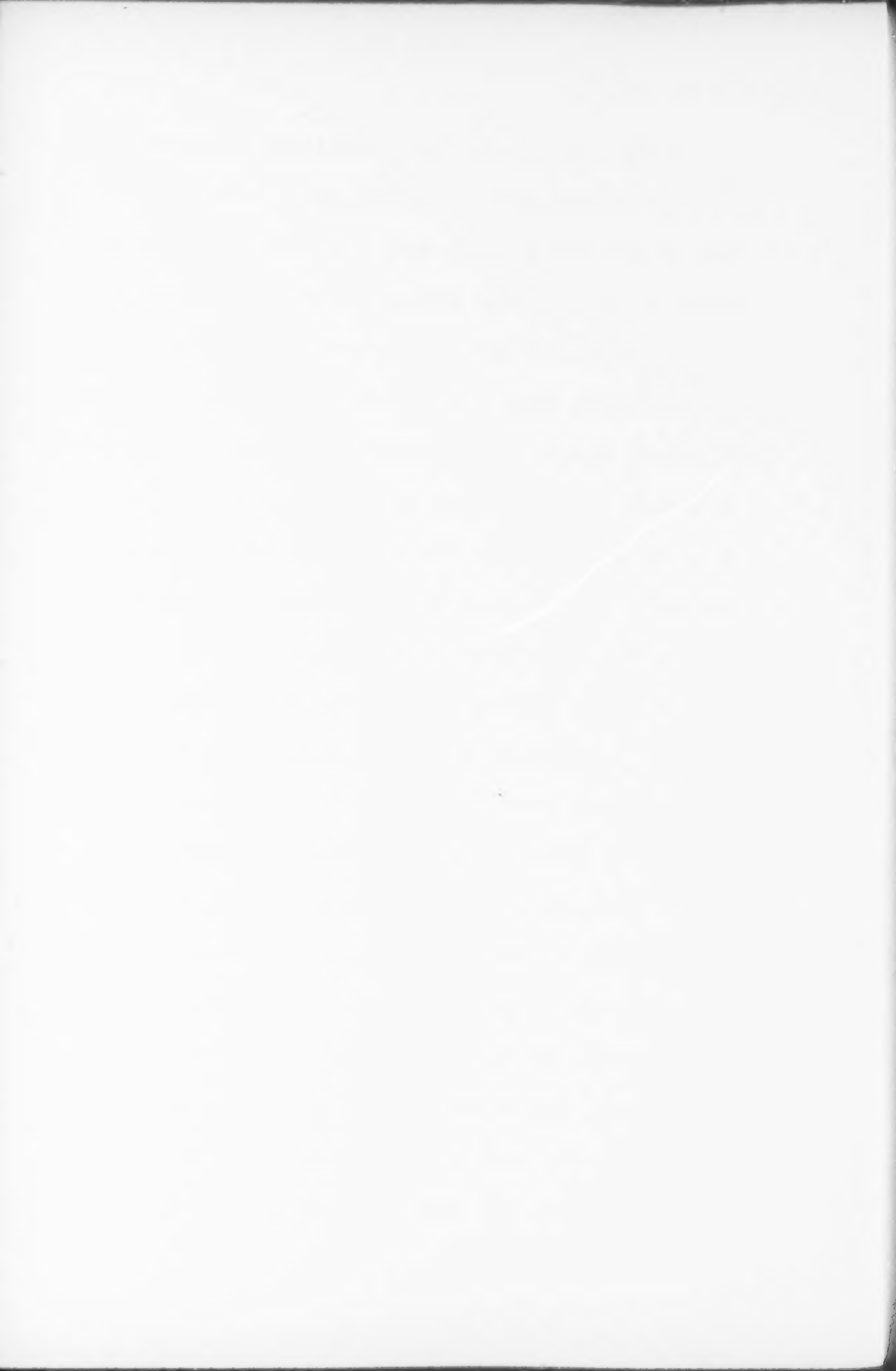
Q. "From the time that you arrived until you left the Sulphur Parish jail?"

A. "Yes, Sir, it does." At TR 565 L-16

Hoffpauier again admitted this, but he admitted being on the scene first which is not on tape "...I went back to the car and got my tape recorder...." At TR 569 L-24,



As reprinted at A-139 petitioner testified:
"...And then Officer Hoffpauier arrives on the scene laughing, and that frightened me even more. And he asked me if I had drugs or weapons, or if I had been drinking. And I told him, No, I had not. And then I asked, I asked again for a citation, and they wouldn't give me any. And I cannot explain just how afraid I was. They--while he had told me originally that I was going too slow, it turned out that the charge turned out to be improper use of a lane, that I was using the lane improperly. And then when I saw that there were two of them and they still wouldn't give me a citation, I became very concerned about trying to get a witness. I didn't know what was happening. And I asked them again to give me the citation. And I asked them if they would allow me to call a lawyer, and they said I couldn't do that at the time. And from the side of the street, from the side of the street, at no time did



I go into the traffic lane where cars travel.
At no time did I lean over the lane, from the
shoulder of the lane. Well, I was desperate.
I did yell for help. And Officer Hoffpauier
was very brutal. He actually hurt me. He left
bruises on my shoulder, and on my knee." At
A-207 (TR 645) "I stated on the tape a number
of times that I had asked for a citation. I
stated on the tape that Officer Hoffpauier
was hurting my hand." At A-212, "I am extreme-
ly disadvantage because there is no tape as to
what happened from the beginning, or during
Officer Hoffpauier's first entrance. That
side of the story, that side of due process
is not available to me..." "And they were
laughing. They talked away from me and
laughed. I was just horrified...." See also
A-173 where petitioner testified: "...Def.
Hoffpauier, I learned in 1987...at some point
after he was in the act, he made a recording.
But I did not know he had a recording then,
and I didn't know it back before 1987. And
the part where the incident occurred,



when there was only Officer Odum and myself,
is not on there at all, and the part where
Officer Hoffpauier first came on the act..
so I feel it is very self-serving and very-"

As reprinted at A-182, Mr. Katsaris, her
highly trained police expert testified:

"In listening to a portion of the audio
tape that was made, and reviewing the
materials and what was related by the
officers of the encounter, the arrest
report, and the photographs, it appears
that more force than was necessary was
utilized by the officers in taking Ms.
Benson into custody."

Note reprinted at A-141, Def. Odum admit-
ted that he had not measured the particular
shoulder where petitioner parked her car
when she was stopped. Note at A-109, copies
of photos taken by the defendants' investi-
gator, also at A-110. Opposition's No. 1
photo wrongly shows she was stopped at M.P.
27, and this was not where Odum stopped her.
Note ticket given to her on 5/6/84 shows
M.P. No. 29. Petitioner pulled over when
she got off the bridge where there was ample
room and Odum admitted he had her walk
alongside the car. Note photo No. 2 shows



where petitioner parked on side of shoulder when she was stopped by Odum. She was going west. Note back of sign supports her point. See all space between car and highway.

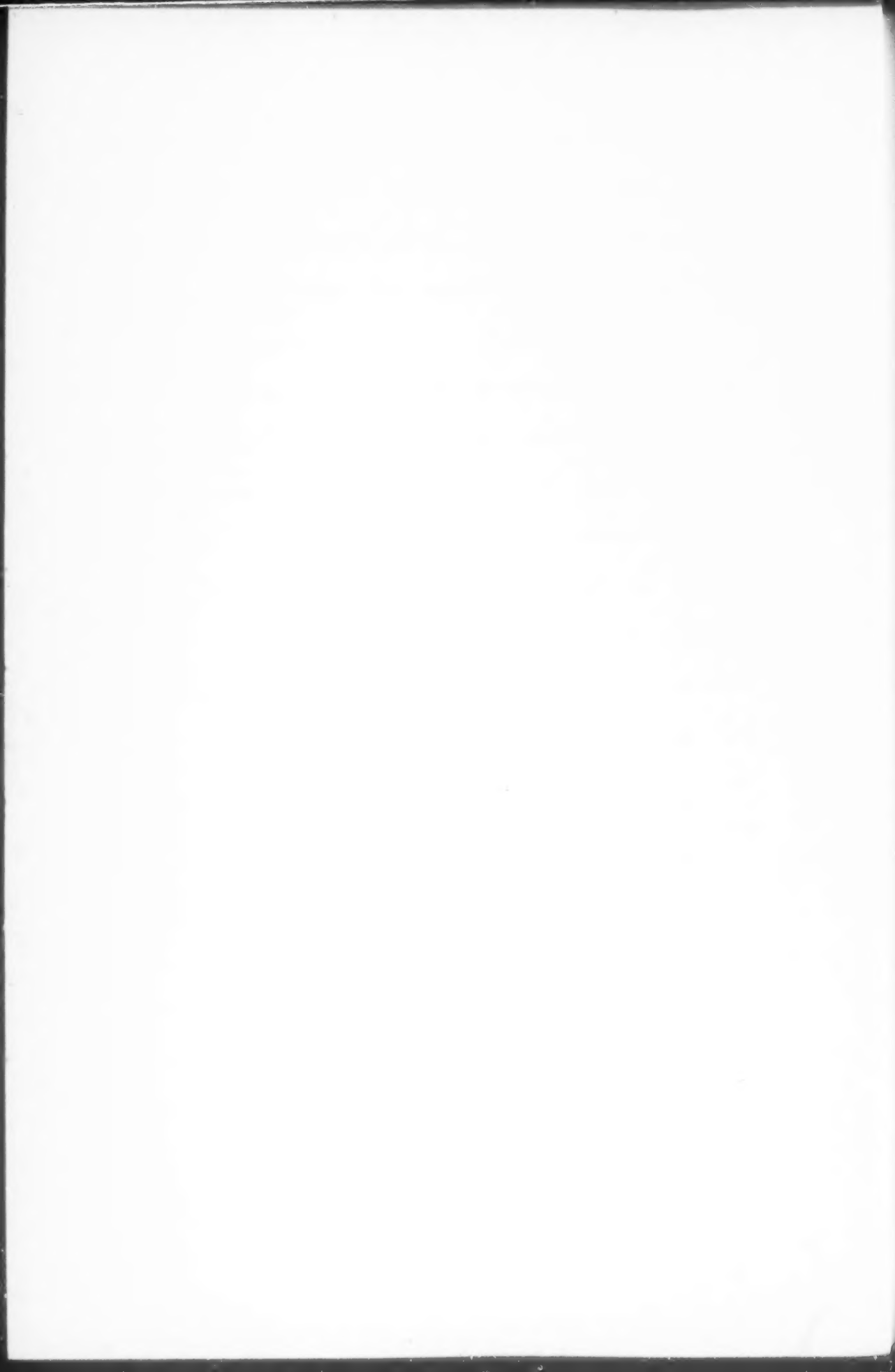
At TR 435 L-13, Def.Odum admitted she asked for citation when she first got out of the car which was even before Hoffpauier arrived and the tape shows that she asked for a citation for whatever it was they were going to charge her with a number of time. Again, when she was about to impeach Odum, the Judge interrupted with the strange false alarm at TR 435:

Q. "Officer Odum now, have you not said two different things here? First you testified that you tried to give me a citation and I did not want it. You testified to that under oath when your lawyer asked you questions on direct, and I just asked you if I had asked you for a citation, and you said, yes, I had asked you."

The Court: "Excuse me."

By the witness: A."When you first got out of car, yes,ma'am." By the Court:

"Excuse me. Let me just interrupt for just a minute. For everybody in the Jury, that was the building engineer from the post office that just came up and told me that ...it is a malfunction, but how long it will



take to correct the malfunction, I don't know."

The on-going strange alarm again distracted the Jury at a crucial time when she was trying to impeach him for good cause. Now, at TR 410, Defendant Odum testified: -L-15:

Q. "Do you recall approximately how long it was after you stopped Ms. Benson's vehicle before Lt. Hoffpauier arrived?"

A. "It couldn't have been more than a couple of minutes."

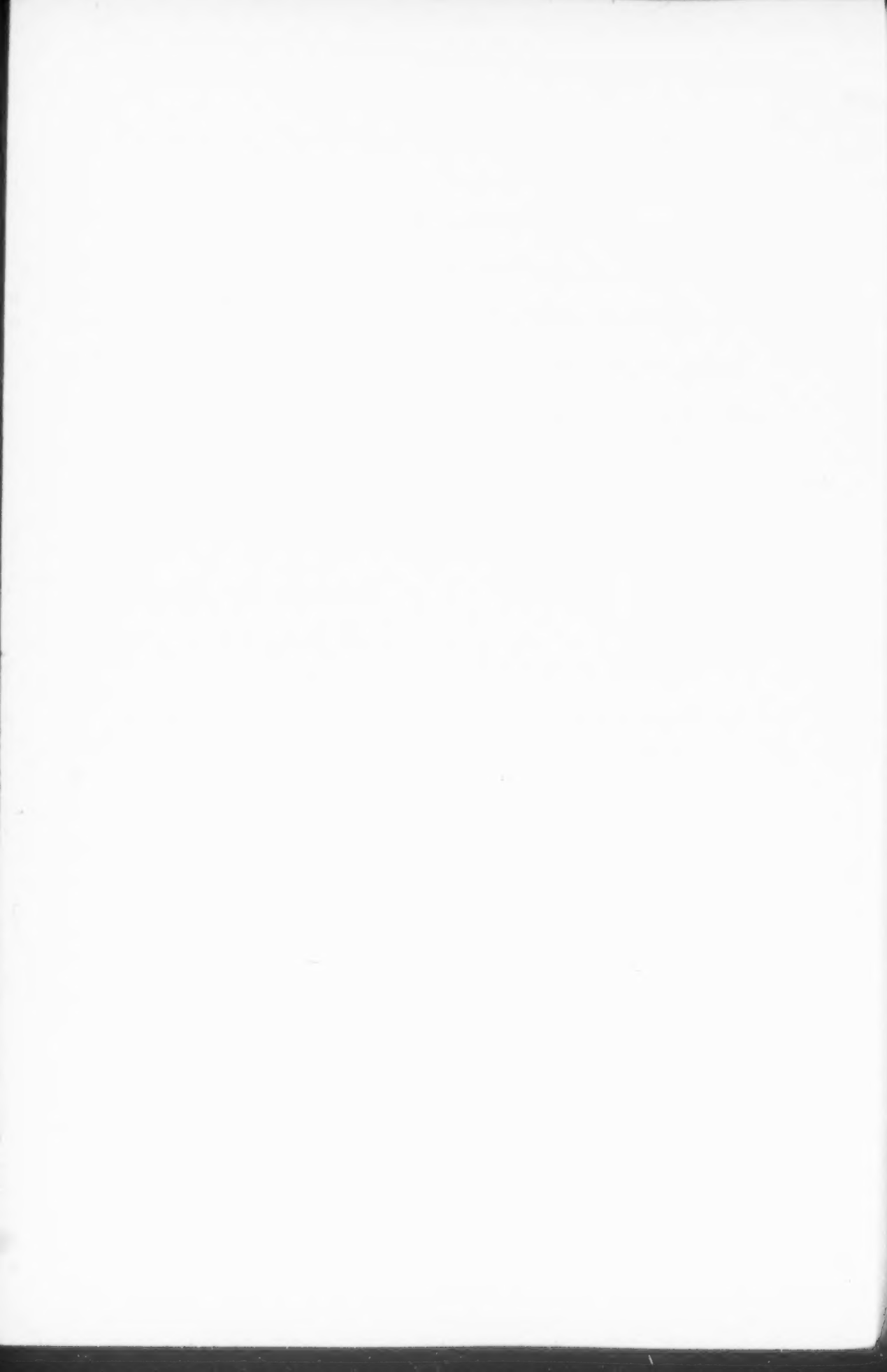
Now, you can just do so much in two minutes.

Q. "When you say she was verbally abusive, could you be more specific?"

A. "Her reactions were very unusual for a traffic stop...she was married to a very prominent man and I could not do this to her..."

The fact that Def. Odum testified that she asked him for a citation negates his untruth and distortions that she had said he could not stop her and issue a citation because she was married to a prominent man. At TR 408 Odum admits that he asked her "if she had anything to drink" by his counsel:

Q. "Did she respond?"



A. "Yes, sir, she did....it was verbally abusive. I don't remember the exact nature of her response other than...being married to a prominent man."

Q. "Were you alone at this time, Mr. Odum?"

A. "Yes, Sir, I was."

At TR 498, L-2 petitioner asked him:

Q. "Officer Odum You did ask me if I was drinking." (on cross)

A. "Yes, Ma'am."

Q. "And what did I tell you?"

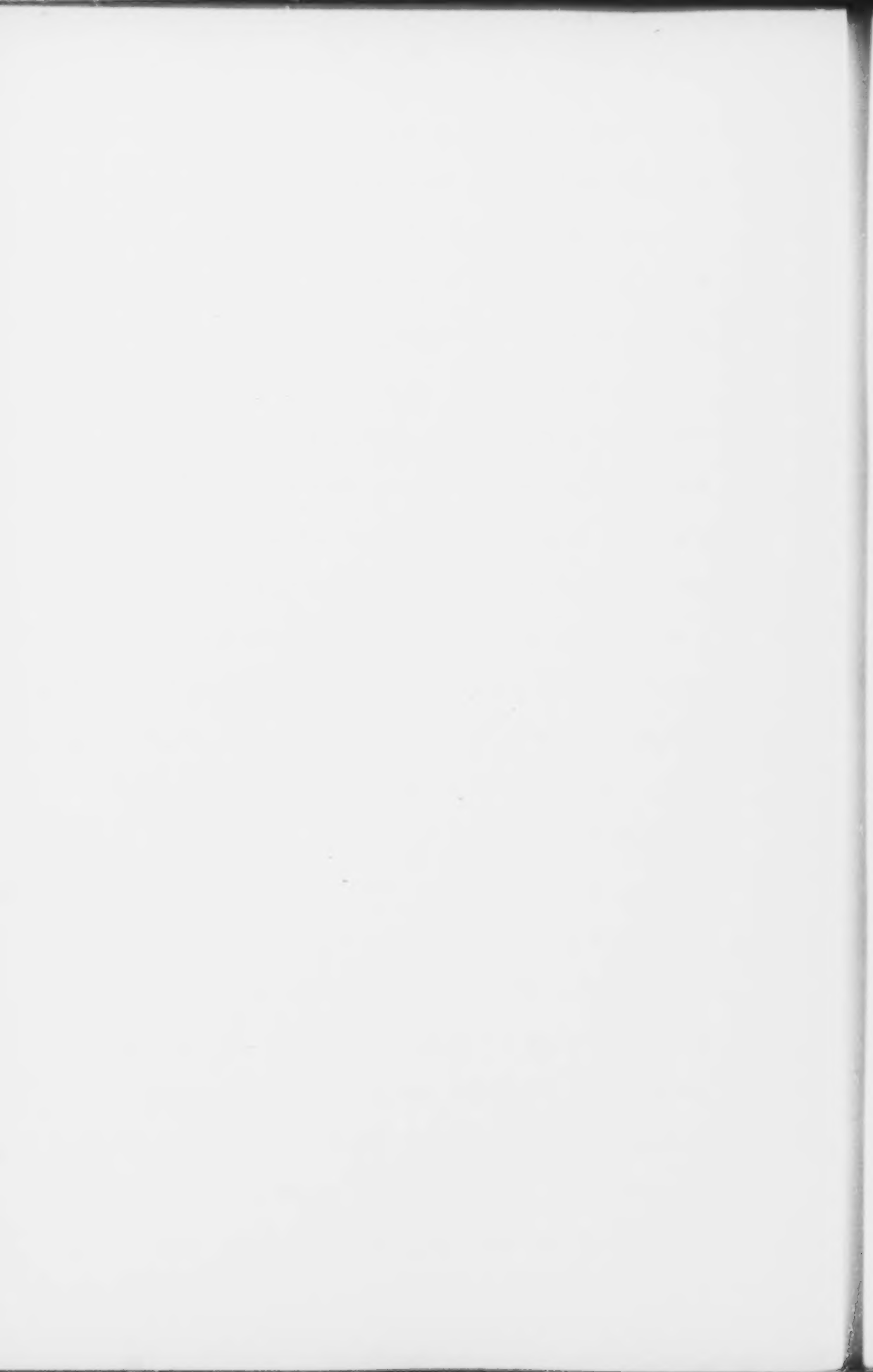
A. "I think you said, no, you had a vanilla malt."

At TR 457, Def. Odum admitted that he testified that petitioner told him she had to put her shoes on "Yes, Ma'am", and he testified that he had her walk alongside the car before Hoffpauier came on the scene, so in two minutes there just wasn't that much time to refuse to get out of the car as he misrepresented. That is simply untrue and unfair and there is conveniently no tape or if he made one he did not admit it for self-serving reasons. The truth as to what happened

from the beginning is petitioner's word against Def.Odum; the hard evidence, his inconsistencies and the computer runs showing they were lying from the beginning supports petitioner's testimony.

The Fifth Cir. also left off the evidence that defendants had her wait 45-mins. to an hour until Def.Officer Fox arrived with a camera, and that he told them this was not an emergency and they knew who she was from her driver's license; this too is on the tape but it was very soft in background. The Judge did not let her call Def.Fox on rebuttal. As reprinted at A-150, petitioner testified:

"...I begged the two officers to give me a citation, if they felt I had committed a violation, to please give me a citation, and to write it and let me go on my way. (verified on tape several times). And they refused. And Officer Hoffpauier also wanted to search my car and my possessions. And they left me waiting there. Time was going



by. And it had been sometime. It was late at night. And it was foggy and damp, and I have a mild arthritic condition. I did not like to stand outside. And they told me I would have to wait. And they got another Officer in the act. And we waited until he arrived. And this was defendant Fox who they, apparently, brought in to conduct the search. ...Their only exception was the fact that Officer Odum saw the malt container, and Officer Hoffpauier, I had a, I had a pocket that was obvious and he did look at (should be in) my pocket. And he turned it around. You know, that frightened me more than anything else. I was not sure what was happening then. But what he was doing was searching. And it was during the time that he was manhandling me. So he put me in the back seat of his car. And I did ask several times, also, to please let me call a lawyer. There were two of them, and if there was a phone across the street, and of course, they did not...." (Should be there was a phone across street.)



"Officer Fox finally arrived. And I was asked if I had any valuables. I told them that I had a briefcase with some personal papers. In fact, I had written a lawyer, corresponded with a lawyer, and then some papers pertaining to other matters, personal papers; they were private papers. And they were not anything that they should have an interest in, or have a reason to read. And I told them, too, that I, had my suitcase and my purse...I told them that I had a diamond, some diamonds my husband had given me in my little purse inside my suitcase. And that was a source of ridicule from Lt.Hoffpauier...there was somewhat of a little quarrel I thought there between the defendants Hoffpauier and Fox. But then Def.Fox found the jewelry, and Def.Hoffpauier shouted at him to bring him the jewelry. And Defendant Hoffpauier had a flashlight, and he held the flashlight, and Def.Fox read my correspondence. And they went through everything I had:...they finally took me to the

Sulphur jail. And when we arrived there, they left me in the car for a while without with no oxygen, with all the windows up and I was handcuffed, and then they took me in and they had me processed, fingerprinted and photographed, and at that time they allowed me to call a lawyer. And then I called a neice who bailed me out, and I left the jail...I think it was around 2:00 O'clock, maybe a little later in the morning. And they then gave me the citations...." Also, as reprinted at A-210 on rebuttal petitioner testified: "I would like to testify that at no time did I go in the road. At no time did I lean over the road. I would like to testify that the troopers did, indeed read my correspondence....all my belongings were seized from me, including my private papers. For a span of time I don't know where my belongings and my private papers were...." Reprinted at A-213-4 petitioner testified: "...and they were personal estate papers, and those are the things I had in my brief-



A-214 "...Your Honor, and I am certain he knows that a person has lawyer-client privilege, that Mr. Adams listed in that letter, is Jim Adams, an attorney in Lafayette. And I had hand carried that that day. It is dated May 5, 1984. And Officer Hoffpauier held his flashlight, and defendant, Officer Fox, read that letter. And when they finished with that, they went to the briefcase in the back. And my position is as damages is concerned, there is a right to travel, and I have a right to carry personal papers without being hijacked and my papers read by the state troopers." REPRINTED at A-218 from TR 101 shows how prejudice the Judge was, how he influenced the Jury and ignored petitioner's testimony, and again scolding:

"...So I am offering it to show that they read my mail,...with my attorney, which was privileged...the other thing...is to show that this is the type thing I had in my briefcase and they read that too, and they insisted on searching me, and then in addition to that--".



Court: "Wait, wait, Ms. Benson. Let me see if I can understand, Ma'am. We are not getting anywhere now. Are you trying to offer it to show that those were the documents you had in your vehicle, and that these gentlemen had access to them, and did view them?" Is that what you are offering it for?"

Ms. Benson: "That they read them. That's right."

Court: "Well, I don't know whether they read them. You say they read them. I don't know."

Ms. Benson: "Well, I am testifying that they read them." underscore added.

Court: "Well, now, you may testify they saw them, now, whether they read them or not--"

Ms. Benson: "I saw them reading them."

Court: "Well, I can look at a document and still not be reading it."

Ms. Benson: "Well, Your Honor--"

Court: "Wait. I am not going to argue with you. If you are offering it to show those were the documents you had in your vehicle and the officers viewed them, objection is overruled."



Had the Judge bothered about the evidence on the tape itself-which one might expect in a Third Rate Dictatorship-he would have have to admit as verified on copy of tape petitioner has: (voice of petitioner on tape of incident:

Benson: "I did not say I work for U.S. government".

"They are searching it without my consent". "That means going through my confidential papers also"

Hoffp. "Yes ma'am"

Benson: "Does that mean reading my confidential papers"

"I thought he was not supposed to read my correspondence" "No, I mean the other man"(Fox)

"No privacy, no confidence, so there's no right. Happens to be a confidential letter".

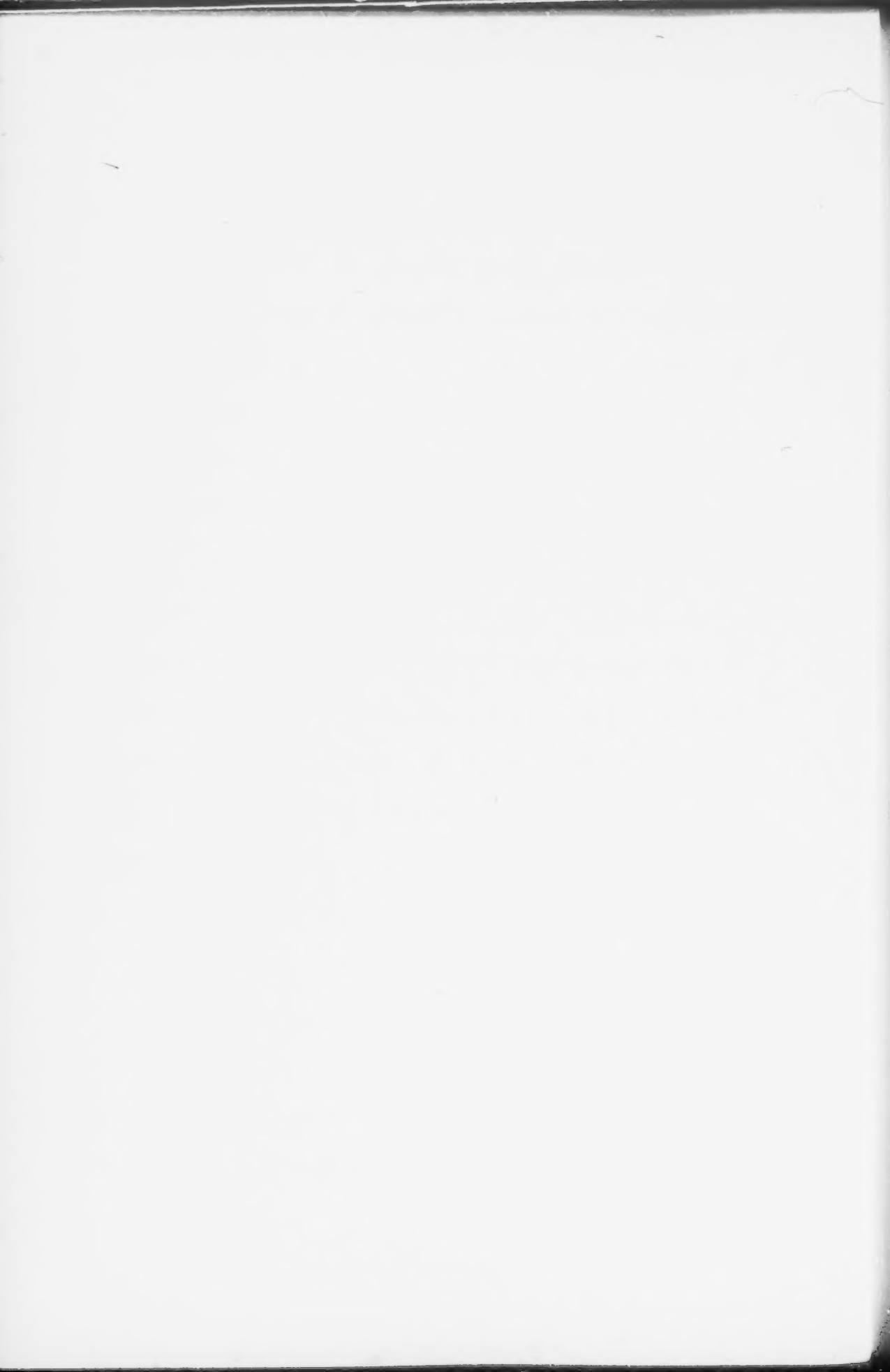
That is the "verbal abuse" the tape shows.

Mr. Katsaris, petitioner's expert with advanced degrees in law enforcement etc.(former sheriff and police officer) testified:

"The reading of materials beyond observing that the materials existed would move from the phase of inventory to a search, in my opinion, when they read the material as opposed to noting existence."

Again the Judge was so rude and prejudicial that he distracted the Jury from the evidence favorable to petitioner. The Judge was prejudice toward Mr. Katsaris also, even at pre-trial conference on 7/30/87 he expressed doubts that he would let him testify because Mr. Katsaris lives in Florida, but he had testified in state and federal courts in La. and in other parts of the County before, he has a very impressive vita, even publishes re police procedure which is used at the University in Lafayette, La., and he is the best expert in that field in the Country and very highly respected-was the top lawman in Florida at one time. At trial the Judge was rude to him with such remarks as "you have told us how smart you are". The Judge's mind was made up about the case before the trial as is proven by his secret sealed report that he wrote after she rested her case and before he had any evidence from defendants. He ignored her evidence and published distortions that are most wrong but that's what he had been told by their

opposition at the pre-trial hearing of 7/30/87 when he did not let her give her side of the incident, and he added to it to her detriment in his unconscionable report. He should not have presided at this trial. The Judge clearly knew Def. Officer Fox and he refused to let her call him on rebuttal At TR 625,L-12 plaintiff stated: "I would like to call Officer Fox" and she thought surely she had noted her exception but it does not appear, so it was a private bench scolding and denial. Things like it was not an emergency; they had identified her; he came with a camera which he had said under oath before (first two was on original tape they made) had to help her. Def. Hoffpauir who had called Def. Fox with the camera to do the "inventory" search testified that he did not know where plaintiff's papers were while she was in jail, and he was the C.O. Facts show that pre-trial they were ordered to produce all information, and they



failed to produce an inventory list which is required for an inventory--but they knew it was a search and not an inventory. The Judge refused to give a charge on police procedures which was one of her exceptions. The La. police regs show a list is needed; defendants did not have one. As reprinted at A-176-177 Mr. Katsaris testified:

Q. "And my next question is, is it proper for a State trooper to change a citation, to change a charge, or to change anything on the ticket, like the timing? Is it proper to make those changes without telling the--"

A. "No, In Law Enforcement anywhere, once a traffic citation is issued, certainly there should not be changes made unless a new citation is issued, and certainly quickly related to you as to what the changes were and why."

As reprinted from A-154 to A-164, the citations, etc. which petitioner entered at trial and described proves that the defendants changed the codes, the time, the charges in the citations, etc. released under Court order in Oct. 1987, as compared to the three citations they finally gave her about 2:00 a.m. on May 6, 1984



after stopping her at 11:35 p.m. Plaintiff's exhibit 9 in record citation 2751358 was issued at 11:35 p.m. May 5, 1984 (given to her at 2:00 a.m. on May 6, 1984) signed under oath by Def. Odum with code of 32.72 for improper use of lane and there was nothing at the bottom, other than Incarcerated. But the same citation given to her in 1987 has the code 32.79 and three years later after he is sued "Def. Odum checked almost caused an accident, and that was not on the citation that had been given to me earlier. And at no time did I almost cause an accident. No car tooted at me, and no car came near me. That is most untrue. And further evidence of that is the fact that when I reported for trial all the charges were dropped or dismissed, and there was no trial." The ticket released in 1987 is also marked "foggy" under weather conditions (and Odum testified the lights were out on the bridge that Saturday night after he was cornered



once at trial while the strange malfunction alarm was not on. Petitioner testified that she was not weaving but if she had inadvertently encroached on the center line would not the foggy night without lights on the bridge be a logical excuse, and should he not have warned her or given her a citation after he saw she was not drinking, had no drugs, no weapons, all of which he admits under oath, and let her go on her way and turn his attention to getting lights on the bridge instead of keeping her outside about an hour. And as reprinted at A-176, Mr.

Katsaris testified:

"There was a portion of the ticket at the bottom that was apparently not provided to you initially. And then the subsequent revision of those citations to you had another section at the bottom which had other conditions present at the time of the stop that were not given to you initially..."

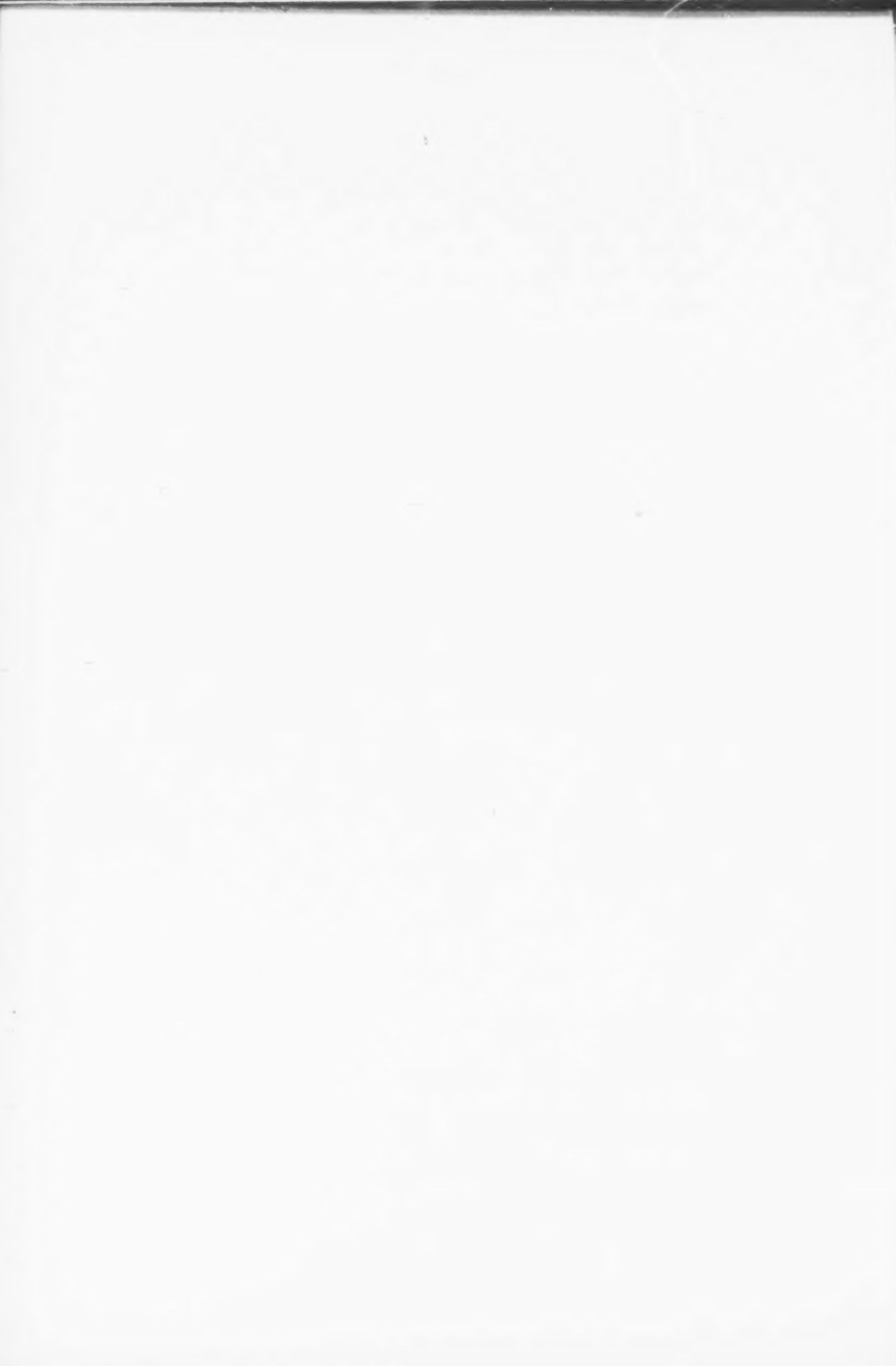
Q. "And should not that have been given to me when the ticket was given to me on the morning of May 6th, 1984?"

A. "Yes. All matters pertaining to the stop,



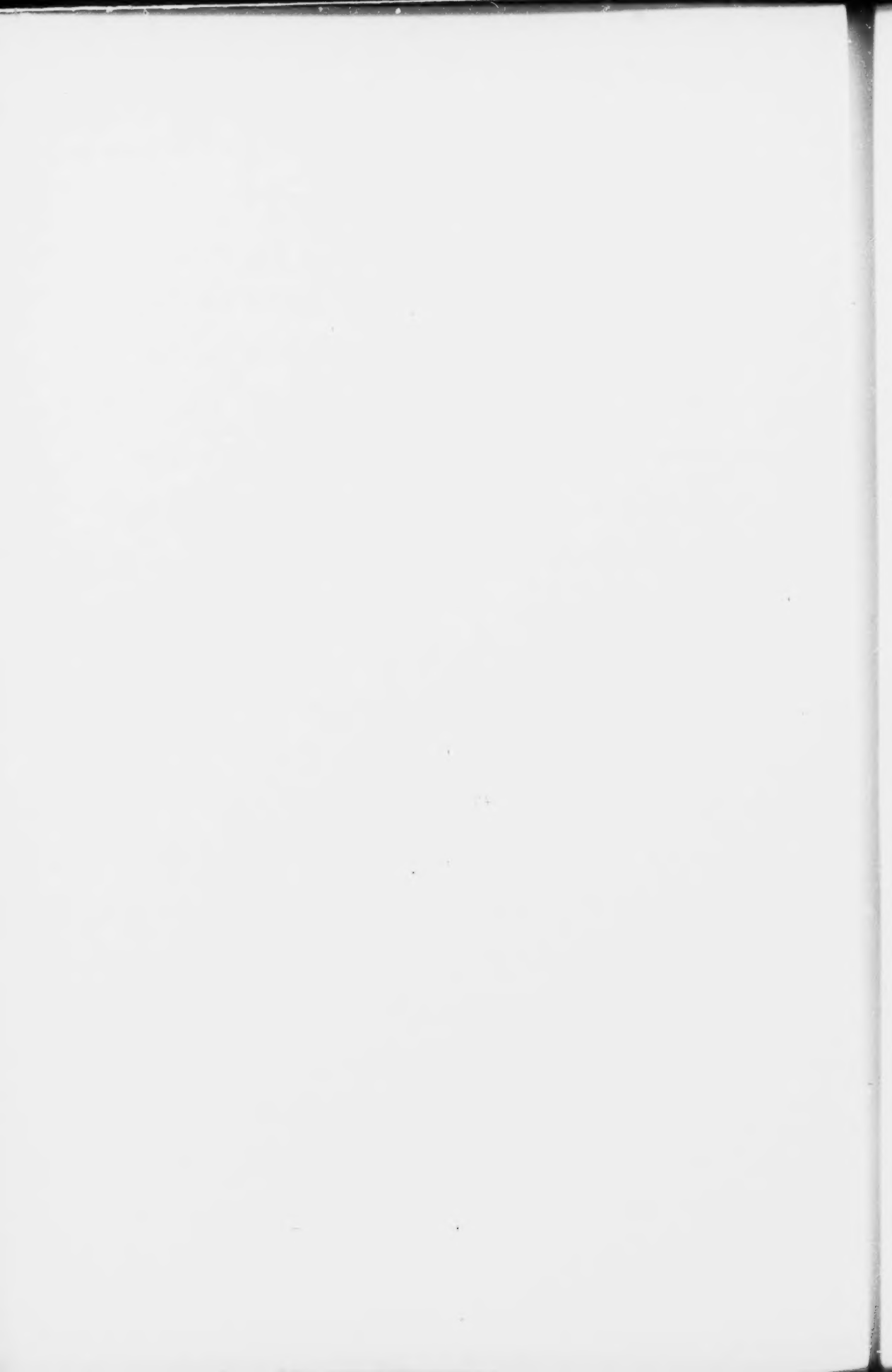
and indications as to the things observed and present at the time that are on the traffic citation should be provided to you at the time so you would know the full scope of what you are being charged with." underscore added.

As reprinted at A-159 petitioner testified re the second charge "I will move on to Plaintiff's Exh. 10, which is a duplicate of 2751364 and which is marked the same date, disturbing the peace, but it was not given to me before around 2:00 o'clock in the morning. And on this one, he shows the time of 11:45. In other words, the time was changed. On the similar ticket like this one, if you will notice when you examine it, on the similar ticket given to me in '84, the time was 11:40, and on this one the time was changed to 11:45." In 1987, three years later after they were sued they gave her more time to disturb the peace to fit their stories because evidence shows she was stopped at 11:35 p.m.!

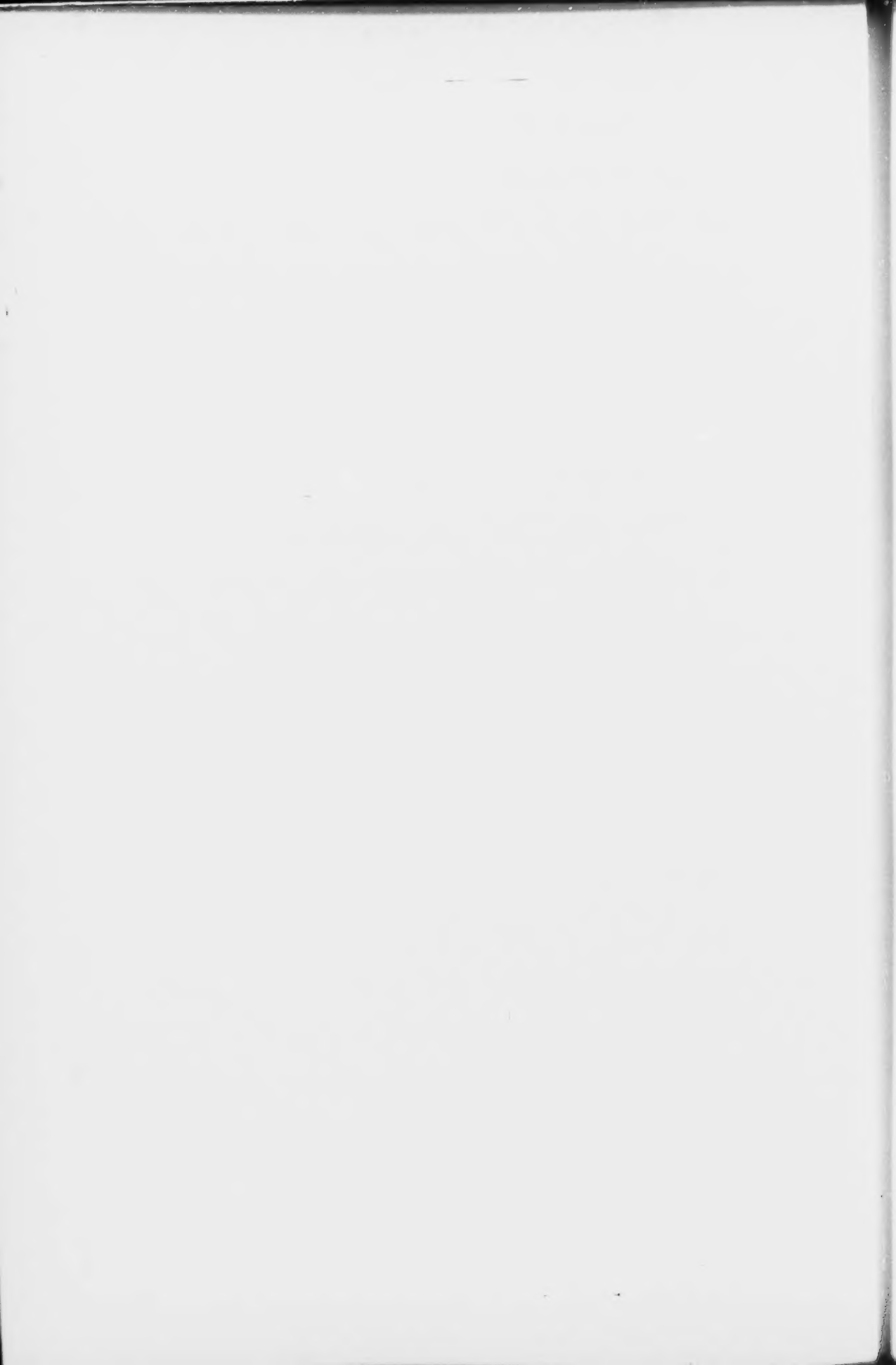


See A-159 for reprints of her testimony and A-160 where she testified:

"And on Plaintiff's Exh. No.11, which is the duplicate of 2752641, the same date, May 5, '84 the time was also changed on this one from 11:40 to 11:45,...and on this one the code was also changed. The code on this one is 14:108 and it states resisting an officer." The same citation given to her three yrs. later under Court order unconscionably gave her more time to resist an officer, five mins. more since the total five mins. shown including the time for all three charges given to her at about 2:00 a.m. on May 6, 1984, from 11:35 p.m. to 11:40 p.m. would not have allowed enough time to stop her, identify her, put her shoes back on and walk alongside the car, disturb the peace and resist an officer and the untruths about refusing to get out of car and running in the street, so they "fixed it" and gave her more time three yrs. later after they were sued!



The evidence shows in the record that although citations are sworn to by Def. Officer Odum at 11:35 p.m. and 11:40 p.m. on May 5, 1984; he wrote over the time changes and code changes on those released to her in 1987 which Mr. Katsaris testified was not proper in law enforcement. One of the code changes was adding abusive language 32.79 in 1987 and the worse Odum could come up with was the prominent man distortions but as shown the prosecutor Mr. Ron Ware also made this change on his bill of information; he also changed the other code to 14:106(c) which reads "knowingly and intentionally obstruct an officer of the law, namely, Sergeant James Odum of Calcasieu Parish, Louisiana, by refusing to give his name and make his identity known to the arresting officer in violation of 14:106(c)", also only given to her in Oct. 1987 under court order. This charge, the



evidence shows was equally false, petitioner testified also that"

"But if I could refer to my Exhibit showing my driver's license, I had given him my driver's license with my name and address on it, so I was identified and he knew who I was."

Further, Def.Odum admitted that she gave him her driver's license before Hoffpauier arrived (which Odum testified was only 2 mins. between the time he stopped her and when Hoffpauier arrived), and Hoffpauir testified that Odum had her driver's license before he arrived and that"yes" it serves as identification; S.S.No.is on it; Officer Fox admitted on tape you know who she is, and Mr. Katsaris testified, reprinted A-179:

"Normally, driver's licenses have photographs, and specify address and so on, and are generally accepted on the surface as identification at that time. That would be correct." Hers has photo.

Too, there are the computer runs reprinted at A-55, A-56 which the evidence shows they had 12 mins., and 6 mins. before they stopped her shows they were following her and had identified her sometime before stopping her!



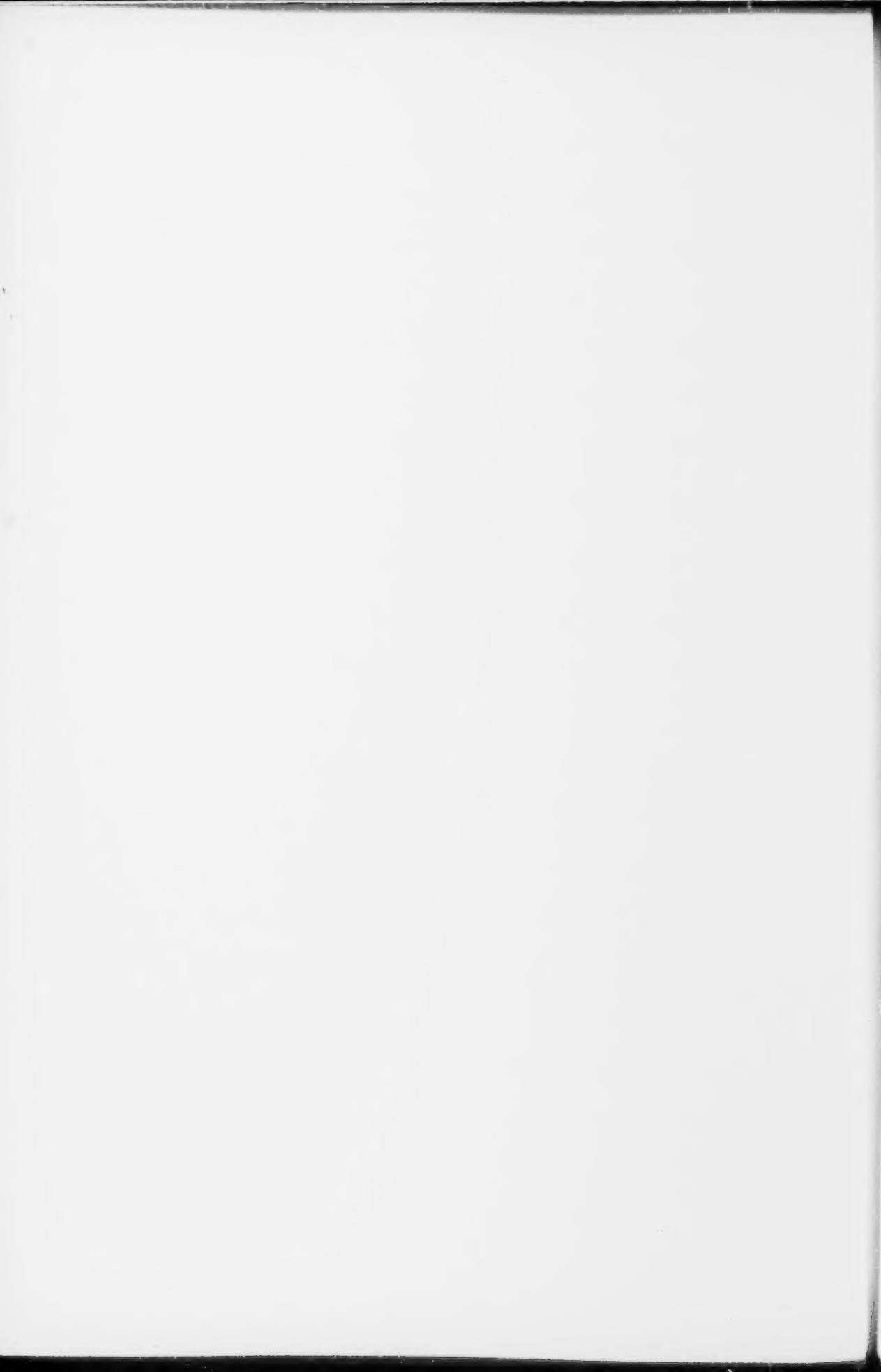
This is a fatal flaw in this case which was covered up with phony secret label of paranoid by prosecutor who did not know her after charges were dropped. Mr. Katsaris who reviewed the computer runs also testified:

"Those computer runs on the driver's license indicate no restrictions, and indicated no other prior driver record. That's correct."

Mr. Katsaris, testified "No" a police officer is not allowed to make misrepresentations in a citation...or of what the situation really is. Reprinted at A-190.

One of the things the lower Courts have ignored is that the defendants had no warrants for all their unconscionable actions.

As reprinted at A-146-7 petitioner had made written complaints to the Chief of La. State Troopers on May 6, 1984 (entered) and she had asked that she be informed if the charges meant anything different since they were shown on ticket under Other Violations, but like with Acadia Police, there were no



responses at all and which is contrary to their regulations which require investigations of such complaints. The Court did dismiss as to Colonel Wiley McCormick, then commander of the La. State Police, and C. Paul Phelps, then secretary of Louisiana Department of Corrections, and for which petitioner reserved her rights on appeal, and the Judge said at TR 395 that

"I have to tell you Mrs. Benson, they were dismissed from the case, but under Rule 54 of the F.R.C.P., your right to appeal that decision is preserved until all the issues in the case are decided."

As reprinted at A-172-73, petitioner entered Exh.18 at trial, "a copy of page 442, of the Clerk of Court in Sulphur, certified by Karen Trahan, on 12-3-84" and testified, "You will notice on here that on Sept. 19th, 1984, on State Trials, at Number 3338-4, State versus Louella Benson, on 9-19-84, in quotes: "Improper use of lane, resisting an officer, disturbing the peace, all three charges dismissed outright, as per Asst.D.A. Ron Ware."



As reprinted at A-123 to 128, petitioner's husband testified at TR 367-71 and verified the trip of May 4, 1984 as shown and its consequences, and testified further at A-127 that "I did" accompany his wife to Lake Charles on Sept. 19, 1984 to the offices of Maurice Tynes, an attorney, and that "we did" drive from Lake Charles to Sulphur on that day for the trial, and that Mr. Tynes met them at the Courthouse in Sulphur, "Yes. He arrived sometime after we got ther." Mr. Benson, as shown, testified that Mr. Ware called his wife in the courthouse, "Yes, he did.", and verified that Mr. Ware talked with his wife for "it was only about a minute." As shown at A-128 Mr. Benson verified that "Yes" on Sept. 19, 1984, Maurice Tynes talked to both he and his wife on May 19, 1984 at the courthouse in Sulphur after the prosecutor talked to his wife, and verified "Yes, he did" when asked if Mr. Tynes also inform your wife that the charges had been dismissed for lack of evidence?"



Note reprinted at A-129-131, petitioner testified re going to Sulphur and the charges being dismissed and her brief contact with Mr. Ware when he called her in the Courtroom on Sept. 19, 1984: A-130

"..on Sept.19,1984, when my husband and I came in from Virginia for the trial,this was the second or third trip I had made again since the incident. I had a lawyer at the time. And we were sitting in a courtroom not as large as this one, when the prosecutor, Ron Ware, called me and told me, I had never met him, I had never talked to Mr.Ware. I had never discussed the case at all. Mr.Ware was not known to me. He called me and told me that the charges had all been dismissed, there would be no trial, and I had a clean record, that they had second thoughts. And I simply listened. I was delighted that the charges had been dropped because they should not have been--I am sorry if I am not supposed to say that.And it was a very,very brief conversation.

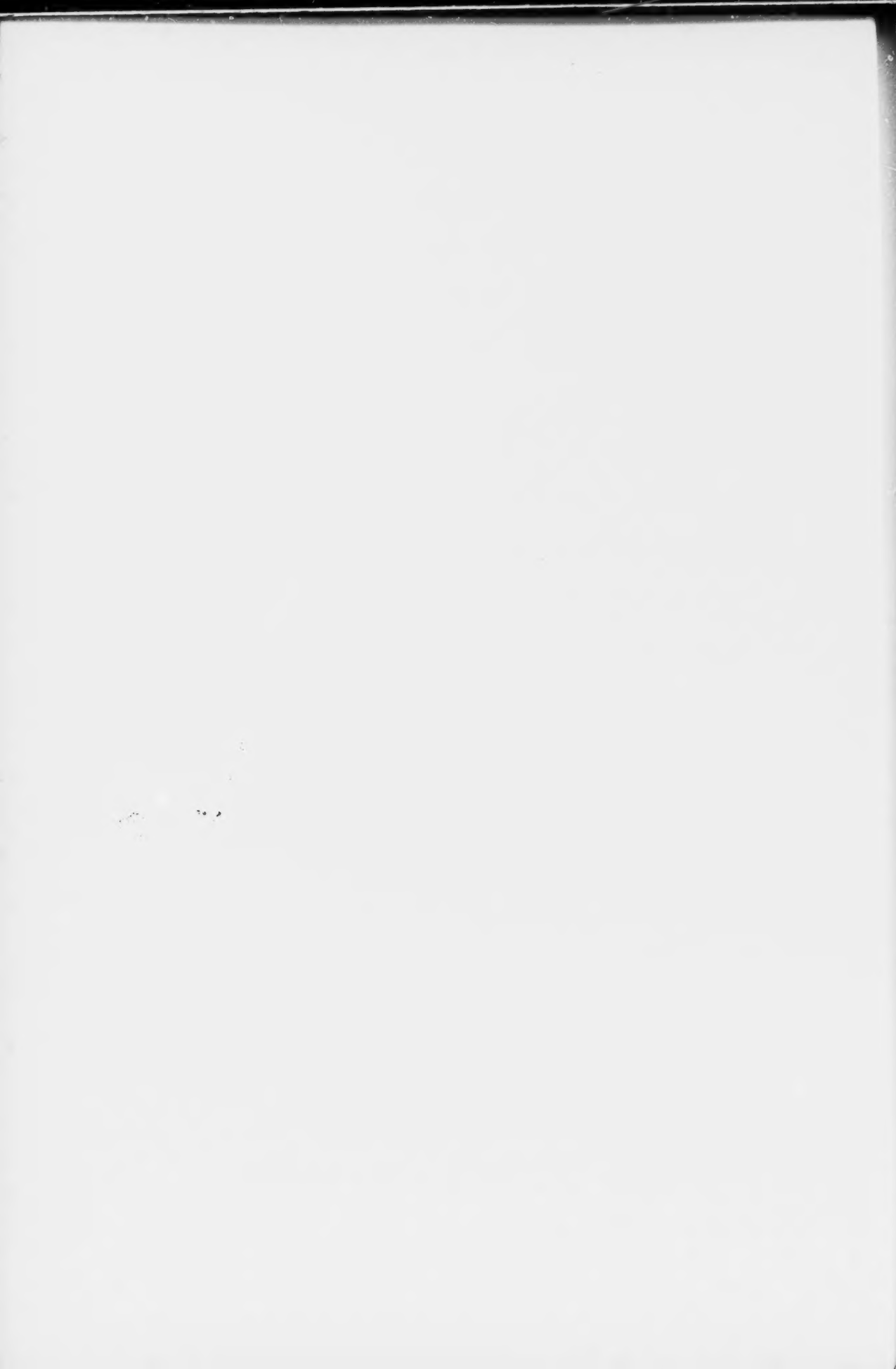


And then my husband, and I talked to my lawyer who informed me that the charges had been dismissed and that they didn't have a case for lack of evidence."

At TR526-528, in the transcript it shows that petitioner tried to make an offer of proof that her lawyer told them at the Courthouse on Sept.19,1984 that the charges were dismissed for lack of evidence; the Judge denied and an exception was taken. Petitioner has a letter from Maurice L.Tynes,Attorney, 330 Alamo St.,Lake Charles, La. 70601, dated Oct. 29, 1987 which says:

"I can verify the events at the courthouse in Sulphur to which I was privy. Your actions against the state police don't really depend on any action of Ron Ware in writing on his files, except perhaps the use of the word "paranoid". Otherwise, it was simply a case of dismissing a case where evidence is minimal or absent."

Petitioner had written Mr.Tynes in Oct.of 1987 after she obtained with Court order a copy of the cover of Mr. Ware,Asst.'D.A.'s file which shows that on 9/24/84,after telling her she had a clean record on 9/19/84,all the charges dismissed when she appeared for trial, Mr.Ware



secretly wrote on her folder "This is an incident involving a very apprehensive and paranoid woman who think the police are a part of a conspiracy to get her. Bad judgment, no point in prosecuting".

At trial Mr. Ware admitted he is not a doctor, has no psychiatric training, that he is a lawyer and at TR 518 L-21 he testified:

Q. "But do you recall calling me aside and talking to me for about a minute, and telling me that the charges were dismissed?"

A. "Yes, Ma'am, I do recall that." pg. 519 L-6-12.

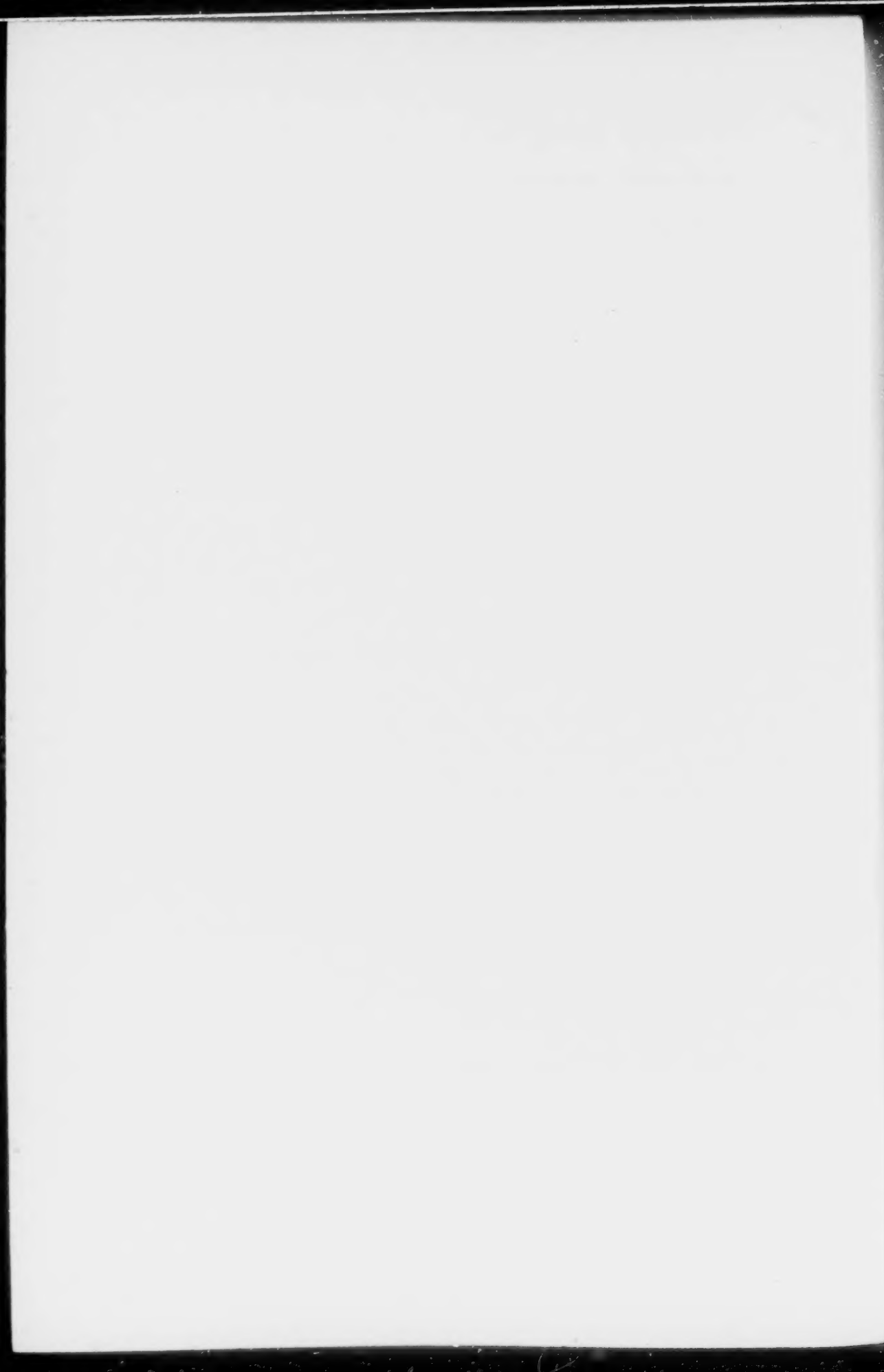
Q. "When did, when and where did we have a conversation? When did you see me other than at the trial, when I reported for the trial at that point?"

A. "Well, that was the first time that I saw you, as I recall."

Q. "Well, when did you speak to me other than that?"

A. "I may not have spoken to you other than that."

At TR 534 Mr. Ware admitted "No, Ma'am", he had not told plaintiff nor her counsel about the secret diagnosing of her which he admitted was several days after the charges were dismissed!



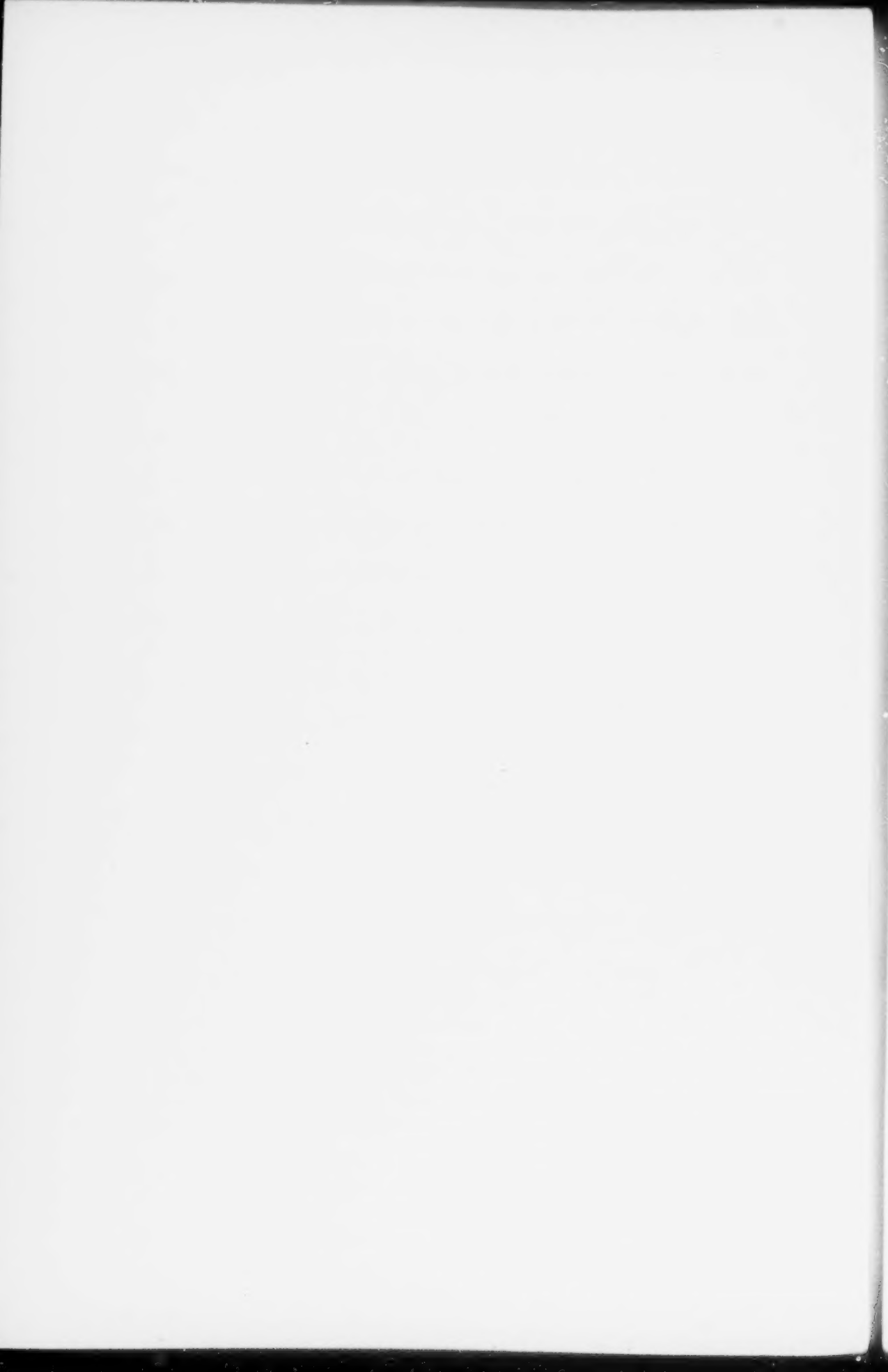
At pg. TR 526, Mr. Ware denied seeing Maurice Tynes at the Courthouse on Sept. 19, 1984, and at pg. TR 536, he testified that "I never talked to an attorney for you," but he admits "Yes, Ma'am" it would be improper" for him to talk to plaintiff with her attorney there!

As reprinted at A-132 on Oct. 18, 1984, after the charges were dismissed petitioner wrote to Mr. Ware for confirmation of dismissal in writing and invoked the privacy laws for disclosure of "any information or reports which are in your files or that of the Sulphur-Lake Charles State Troopers"

As reprinted at A-133 and read in record at trial by Mr. Ware at TR 531 L-14 (Exh. 30) Mr. Ware responded to her in Oct. 1984:

"Dear Mrs. Benson, please be advised that there are no charges pending against you in Calcasieu Parish. Also be advised that I am not at liberty to forward to you police reports, files, etc. These items are only for law enforcement use only..enclosed your check for \$10.00."

Such secret labels by a lawyer who does not know her are for police use only! At no time



did she tell anyone they were out to get her. Why the secret processes by a govt. lawyer who does not know her, secret labeling by one who is unqualified after she had presented herself for trial and had been told she had a clean record. It is the defense who have been secretive; petitioner has been opened; facts show they were wrong about all their suspicions; The trooper defendants testified that petitioner had no drugs, no weapons, was not under the influence of alcohol or any drugs when they stopped her in '84 and Def. Odum admitted that "she has an excellent driving record". See documentations from Ken Kasaris's testimony at trial where he verified all this after having reviewed the record and it's in the transcript in defendants' own testimony. Def. Odum let the cat out of the bag when he testified ^{TR 448} "But the main reason I was attracted it was a weekend". Is petitioner not allowed to travel on a Saturday night alone; she has been in many places but never was she



stopped, laughed at, refusing to give her a citation, brutalized, searched and seized all her belongings, read her confidential mail, arrested her. The tape shows that Lt. Hoffpauier said "plant security, plant security" and he testified that the tape was only re petitioner! Speaking of paranoia!

As reprinted at A-45 to A-60 petitioner had tried to file her Motion in Limine in writing with attachments to prohibit any testimony from Asst.D.A. Ware about his subjective secret label placed on her folder after the charges were dismissed without telling she or her lawyer, and to prohibit the defense bringing in her other legal matters in La. because she had been denied due process etc. and she would not have time to inform the Jury of what it was about and the exploits there. The Judge did not let her file the written motion and over her objections he allowed the above, including Mr. Ware's secret label! and which was very very harmful and discrediting to this prose

person at trial. During the trial the Judge kept referring to petitioner going to the Fifth Cir.as though the case had already been decided! In one instance at TR 400 she told the Judge:

"My recollection of something that transpired differs from what your Honor stated as to the remark by Mr.Ware. I believe your Honor said that I had brought it up. And my recollection of it is that Mr. Lorenzi brought it up when my witness was on the stand yesterday..and I believe I objected."

Court: "When you appeal your case, if you appeal it, you make that argument to the Fifth Circuit, and if I am in error, they will reverse me."

The facts show the Judge was very very prejudice; he refuse to allow Mr. Katsaris who has all kinds of degrees and who has had courses in psychology and working with arrests and all sorts of fearful situations; he refused to let him comment fear; that's a matter of the state of mind and that he was not qualified; but let in the unconscionable secret label by a lawyer who admitted he was not qualified and he let Def.Odum go on and



on about the drug lithium which this petitioner had never heard of, other than from the defendants, and Odum was elaborating about lithium being used for manic depressives and which he was trying to link to petitioner in front of the Jury, inspite of the fact that he admitted that he was not qualified to label or prescribe any meds. If you hijack someone on the highway and refuse to give them a citation, laugh and brutalize them and read and take their private papers and all their possession, etc. they would be nuts if they were smiling. However, this petitioner has objective scientific evidence from the proper professionals of one of the most respected universities in the Country that she does not have the mental problems and does not need treatments and she had not placed her health in controversy, and which she told the Judge during one of the bench conference when he said some lawyers thought he was crazy.

She volunteered for such evaluations, including complete psychological testings after heart injury-prominent septal depolarization. Def. Odum did not give the results of any mental evaluations when he was questioned at trial as to if he had been evaluated. Petitioner was not able to discover the names of others who made complaints about them-they were both retired by 1988, a prior case was mentioned where a mental patient had died of dehydration-but no names. See petitioner's husband's affidavit at A-67. Upon their return to Va. in Feb. 1988 from Lake Charles, their Va. home had been broken into by a lawyer who does not know her and a former F.B.I. technical cop who used to work with raw files and petitioner was represented as a woman in her 80's and mentally unstable as a reason to break in to her private, ^{home} /her private papers all over, some missing, damages to inside and outside of the house and the Court file in that case in Va. has been missing for two months! She is 55.



While the sound tapes are destroyed promptly in this case and such things as estate problems and attaching her proper become the State attacking her problem for the record; and her home in La. has really been attached which fulfills 1981 plans to take over, all discovery denied including by some with history of dependency, addictions-this plaintiff and her Jewish husband with cancer are no longer secure in their own home, although they both put much back into the system which is ignoring their most precious rights to their great detriment. Although all discovery was denied in other cases as documented, the Judge allowed opposing counsel to bring this up in subject case before the Jury and he was given the Order prior to trial in subject case and which was based on phony "police" affidavit proof now shows, no discovery, etc.

The Judge definitely knew Def. Fox and he indeed congratulated him for his promotion to sergeant before the Jury, TR 8 Vol.1, and then he would not let her call Fox on rebuttal.



TR 388, Vol. 3 L-5. Of most importance, is that the Judge really rushed the Jury into a decision; after they returned from deliberating for about an hour and some wanted to hear the options from the record which Mr. Katsaris had testified the police had, (reprinted at A-194-96), the Judge said he could not have this read to them but told them if they could not reach a decision in about ten minutes they would have to come back Monday A-223 and frightened them with the weather conditions-he should have dismissed them until Monday or not mentioned the weather which was not bad; she drove 100 miles that evening. At TR 540,621, the Judge kept referring to her appealing to Fifth Cir. before Jury as though she had already lost; TR 279 chastising appellant; defending in front of Jury Tr. 118,125, talked of removing her from the stand; Tr.73 nasty about her reading complaint; also sexist TR 15 and TR 258 re "judging women", also placating a number of times, TR563. TR 363 criticising, TR 485 prejudicial



before Jury-special instructions on case, TR 653 L-1-8 re defendants' inconsistencies. The tapes would have been crucial to show his anger, scolding prejudicial remarks during trial.

As shown at A-220-21, the Judge overruled her objections on exceptions when she asked for a charge on the reading of her private papers (after he would not let her testify to what she saw!) for charge on defendants making a secret tape only after their initial provocations, a charge on police procedures, e.g., their actions, the changes in citations released in 1987, options, inconsistencies, charge re interrogatories etc. but he insisted on such things as hot pursuits when Def. Fox admitted it was not an emergency in deposition, which Mr. Katsaris read and agreed with and testified to.

ARGUMENT-Authorities Relied Upon

Defendants in this case delayed until Dep. Bearb et al got summary judgment without a



hearing-only then were interrogatories answered by Odum. Lt.Hoffpauier carefully said he was not Odum's supervisor that night.

In CA 87-1372-A Pierson et al vs. Sheriff Gondles et al, Arlington,Va.1988,Judge Cacharis dismissed complaint filed by four deputies because they "conspired among themselves to give false testimony..warrants most serious sanctions". (In Jones vs. Helms 452 U.S. 280, the S.C. protected the right to travel. As to the unnecessary search and seizure-also offered in her instructions- she cited Arizona v. Hicks, 1987 S.C. rejected " cursory inspection" and "reasonable suspicion" instead of probable cause," a search is a search Judge Scalia said,even if it happens to disclose . nothing but the bottom of turntable" See A-175 Katsaris testified re La.State Police manual cautions "inventory cannot be used as a ruse for search"

In a 1979 case, Judge Kennedy overturned a conviction based on an illegal search of a car,saying "facts relied upon to support



the stop of..vehicle do not..constitute grounds for a reasonable suspicion of criminal activity." The defendants did not have probable cause to believe a crime had been committed and they didn't have a warrant so U.S. vs. Chadwick 433 U.S. 1 1977 and Ark. vs. Sanders - 442 U.S. 753 1979 offered by petitioner apply and should have been given; also Bivens v. Six Unknown Agents, 403 U.S. 388 (1971)-falsely arrested etc. Charges in subject case all dismissed.

U.S. vs. Candelaria Gonzales 547 F2nd 291

5th Cir. 1977 pg. 297:5th Cir.ignored their law:

"Repeated indications of impatience and displeasure of such a nature to indicate he thinks little of counsel's intelligence and of what he is doing are most damaging to a fair presentation of case."

Walberg vs. Israel 766 F2nd 1071 Cir.denied

106 S.C. 546 7th Cir. 1985; Strickland vs.Washington 104 S.C. 2052 -1984 If State is not a passive spectator of an inept defense but is a cause of it the burden of showing prejudice is lifted", "in a different ballpark".



In 1987 a federal Judge in Kentucky ordered destruction of steno notes and tape recordings of a hearing, a violation of federal law governing official records-R.Hall vs.Jericol Mining Inc.Federal Records Act requires that such transcripts and recordings be retained seven years-Kenneth Rossman.Court reporter for Va.Fed.Judge does not discard tapes. In Hinshow vs.Doffer 785 F.2nd 1260 5th Cir.1986 supervisor held accountable-history of abuses, training etc.;Sims vs.Adams 537 F 2nd 829 5th Cir.1976;supervisorsdo not have to be on spot to be held accountable-indirectly; Barksdale vs. King 699 F. 2nd 744 5th Cir. 1983-Statutory duty established;Thomas vs. City of N.O. 687 F. 2nd 80 5th Cir.1982;supervisors'code of silence; Childs vs. Duckworth 705,F 2d 915,Ind. Ct.Ap.1983 and Taguth vs. Zuck 7109 F 2d 90 2nd Circ. 1983;pro se plaintiffs' rights established. Vitek v. Jones S.C.1980; Rogers,Mass.1978-79.

Conclusions

For reasons set forth above and to prevent increasing abuses she prays Writ will be granted.

July 28,1989

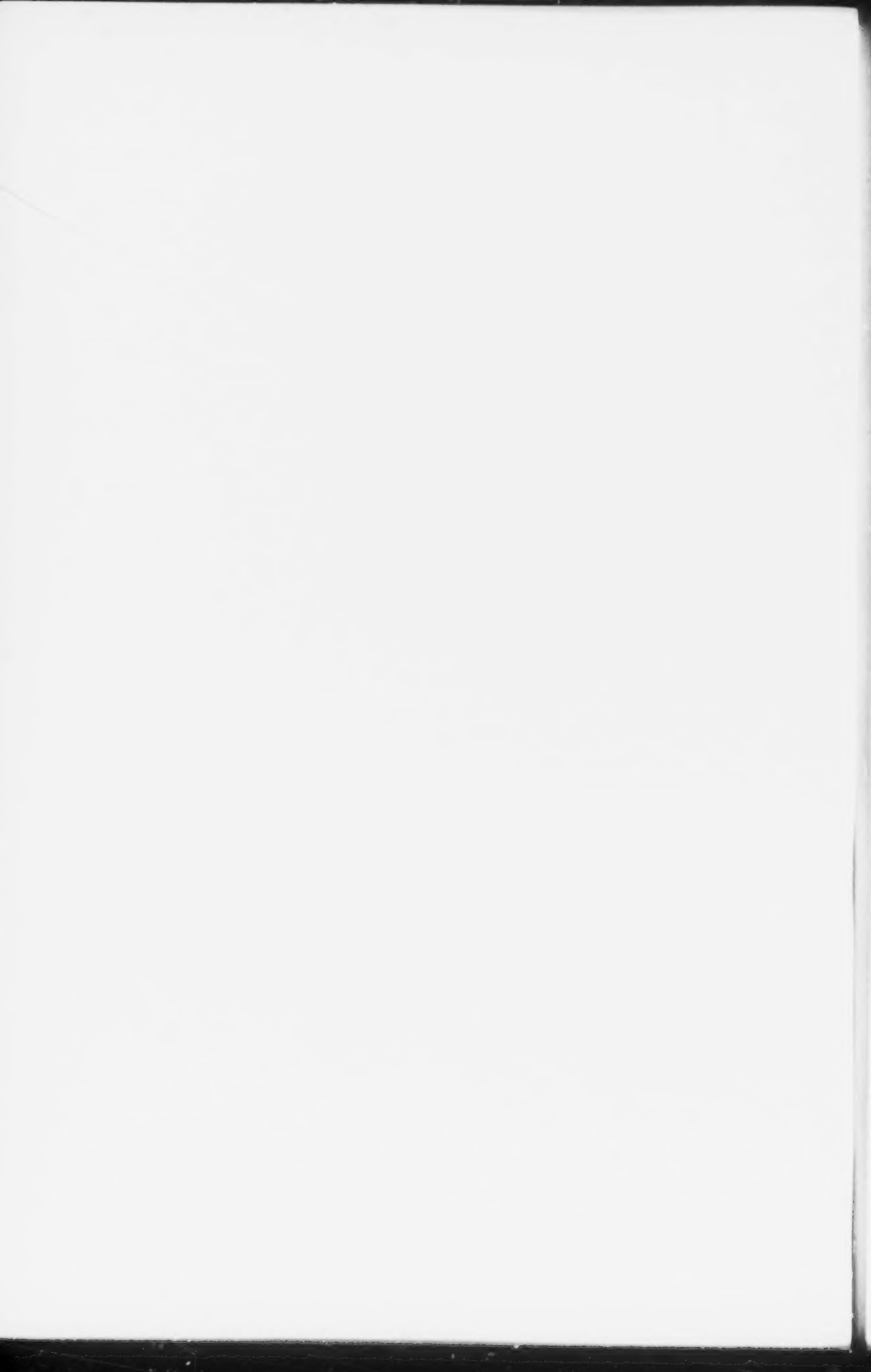
Louella F. Benson
Louella F.Benson, prose
6432 Montrose Street
Alexandria, Va.22312
703 256 7595

CERTIFICATE OF SERVICE

I certify that three copies of the foregoing have been mailed to Thomas L. Lorenzi, P. O. Box 1743, 132 W. Broad Street, at Lake Charles, Louisiana 70602 on this the 28th day of July 1989, via first class postage prepaid.

Louella F. Benson

Louella F. Benson, prose
6432 Montrose Street
Alexandria, Va. 22312
703 256 7959



APPENDIX



IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 88-4182

LOUELLA F. BENSON,

v. Plaintiff-Appellant,

Lt. RAYMOND HOFFPAUIER, et al,

Defendants-Appellees

NOTICE AND MOTION TO STAY THE MANDATE

NOW comes Appellant, Louella F. Benson, and gives notice to all parties that she will file for an application for certiorari with the Supreme Court in the above mentioned case, for review of the District and Court of Appeals' rulings in the above case.

Appellant respectfully requests that a stay of the mandate be granted for a period of 60 days pending application to the Supreme Court for a writ of certiorari. The denial of her Petition for Rehearing by the Fifth Circuit was entered on 5/1/89 and received by her this date. This Motion and Notice are being sent via overnight service in view of 7 day limitation

for filing before the mandate is issued. Should there be a fee for any reason, appellant will remit upon request.

Brief in Support of Motion:

Appellant respectfully prays that the mandate be stayed for 60 days to allow her enough time to prepare her Writ; appellant is pro se, and she is involved in other litigation pro se to defend against the attachment and contamination of her property in La., and in the break-in of her private home in Va. by the Technical Services (TSD), of Police while she was prosecuting subject case pro se in Louisiana; in addition to her job as administrative secretary bookkeeper and her house work, etc.

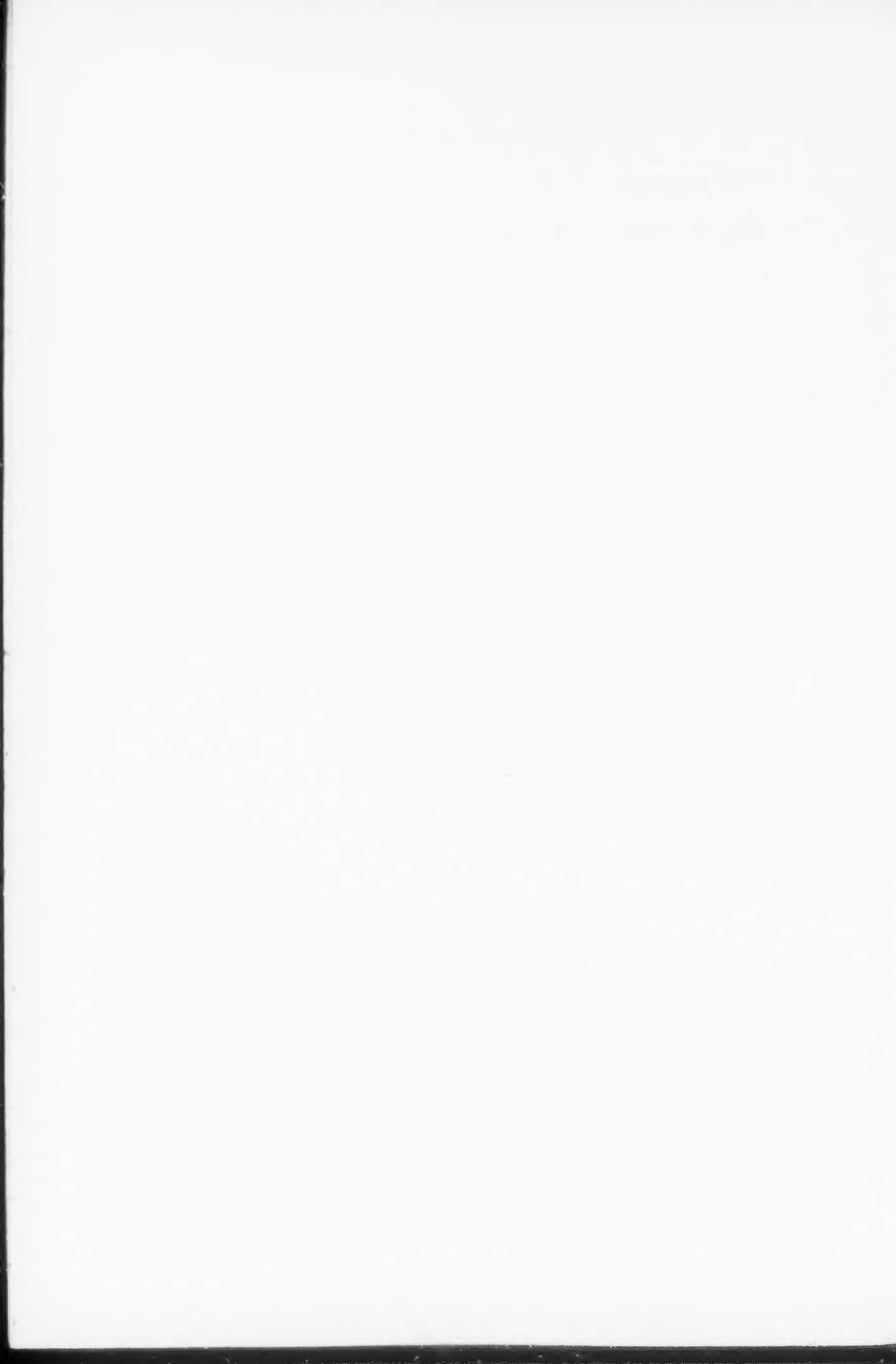
Respectfully submitted,
/s/ Louella F. Benson, prose
6432 Montrose Street
Alexandria, Va. 22312

I certify that a copy of the foregoing is being sent to the opposing counsel:
Thomas L. Lorenzi, Esq.
Broad at Lakeshore Dr., P.O. Box 1743
Lake Charles, La. 70602

A-3

and to the Clerk of the Supreme Court,
Washington, D.C. 20543, on this the 4th
day of May 1989 via first class mail.

/s/Louella F. Benson



IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT
No. 88-4182

LOUELLA F. BENSON,	U.S. Court of Appeals
Plaintiff-Appellant,	F I L E D
versus	May 19, 1989
LT. RAYMOND HOFFPAUIER,	Gilbert F. Ganucheau
ET AL,	Clerk
Defendants-Appellees.	

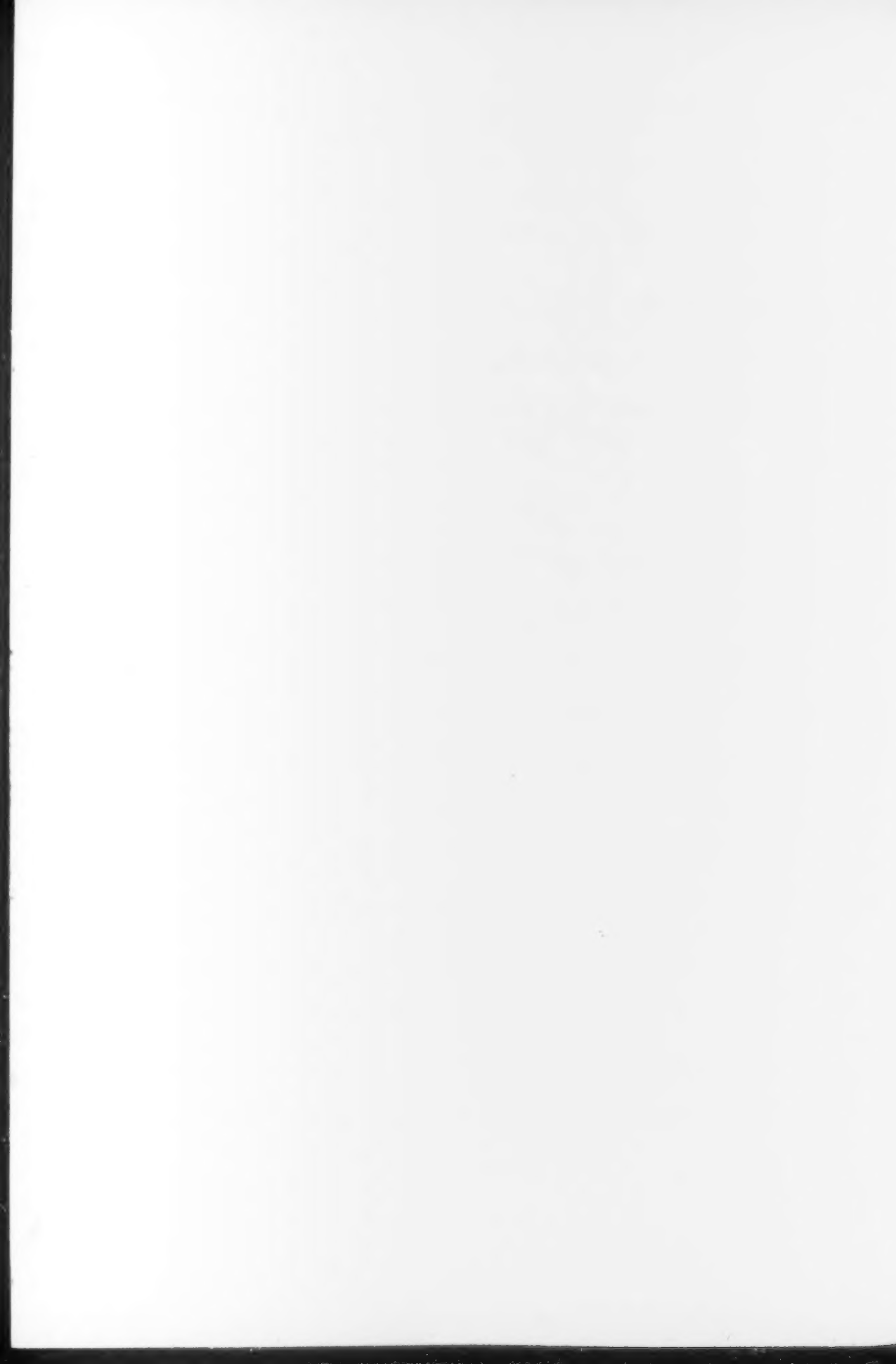
Appeal from the United States District Court
for the Western District of Louisiana

O R D E R:

✓ The motion of Appellant
for stay of the issuance of the mandate pend-
ing petition for writ of certiorari is DENIED.

The motion of Appellant for stay of the
mandate pending petition for writ of certiorari
is GRANTED to and including _____, the stay
to continue in force until the final disposi-
tion of the case by the Supreme Court, provided
that within the period above mentioned there
shall be filed with the Clerk of this Court the
certificate of the Clerk of the Supreme Court
that the certiorari petition has been filed...

s/ Henry A. Politz
U.S. Circuit Judge



UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT
OFFICE OF THE CLERK

May 19, 1989

Gilbert F. Gancheau
Clerk

Tel. 504-589-6514
600 Camp Street
New Orleans, La.
70130

Mr. Robert H. Shemwell, Clerk
United States District Court
Shreveport, La. 71101

No. 88-4182 - Benson v. Hoffpauier,
et al
(USDC No. CV85-1239)

☒ Enclosed to you only is a certified
copy of the judgment of this Court in the
above case issued as and for the mandate.

Enclosed herewith are the following
additional documents:

☒ Copy of the Court's opinion.

☒ Original record on appeal or review
9 Volumes.

☒ Other original papers forwarded with
record. 1 Envelope

☒ Bill of Costs approved by this Court.
Copy enclosed to counsel.

cc: Letter Only
Hon. Earl E. Veron
Ms. Louella F. Benson
Mr. Thomas L. Lorenzi

a/ H.E. Adams, Jr.
Deputy Clerk



IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

NO. 88-4182

LOUELLA F. BENSON,
Plaintiff-Appellant,

v.

LT. RAYMOND HOFFPAUIER, ET AL
Defendants-Appellees

U.S. Court of Appeals
F I L E D

May 1 1989

Bilbert F. Ganucheau, Clerk

Appeal from the United States District Court
for the Western District of Louisiana

ON PETITION FOR REHEARING

Before POLITZ, KING and SMITH, Circuit Judges.

PER CURIAM:

IT IS ORDERED that the petition for re-hearing filed in the above entitled and numbered cause be and the same is hereby denied.

CLERK'S NOTE:

See FRAP AND LOCAL RULES
41 for STAY MANDATE.

ENTERED FOR THE COURT:

s/ Henry A. Politz
United States Circuit Judge

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

NO. 88-4182
Summary Calendar

LOUELLA F. BENSON, Plaintiff-Appellant,
Versus

LT.RAYMOND HOFFPAUIER, ET AL
Defendants-Appellees.

Appeal from the United States District Court
for the Western District of Louisiana
(CV 85 1239)

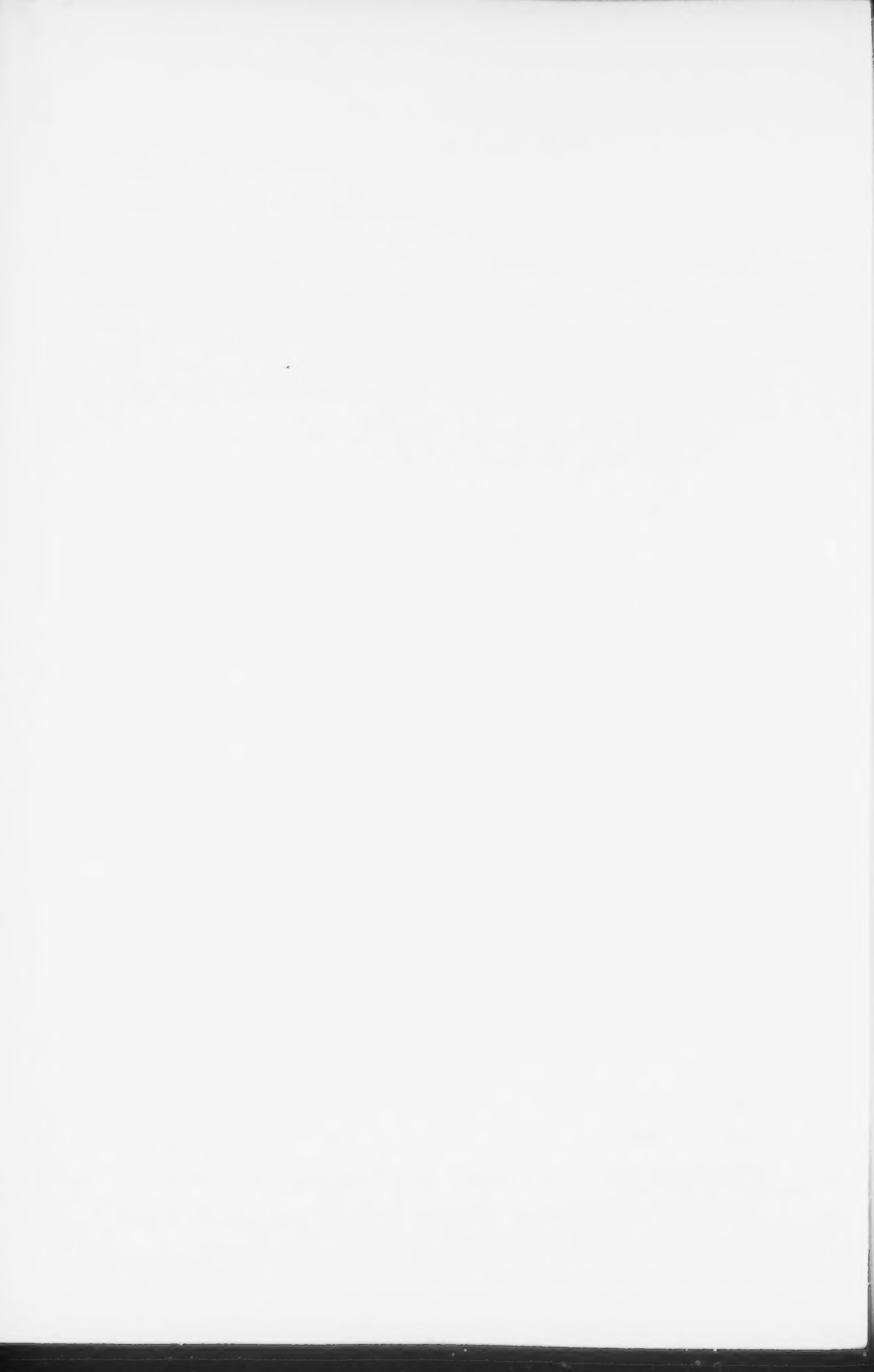
(April 4, 1989)

Before POLITZ, KING, and SMITH, Circuit
Judges.

POLITZ, Circuit Judge:*

Louella F. Benson appeals the denial of her motion for a judgment n.o.v. or a new trial in her unsuccessful 42 U.S.C. § 1983 suit. Finding neither error nor abuse of discretion, we affirm.

*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the court has determined that this opinion should not be published.



Background

On May 5, 1984, on Interstate 10 near Lake Charles, Louisiana, Sergeant James R. Odum of the Louisiana State Police stopped Benson after she changed lanes in an erratic manner, thereby endangering overtaking traffic and nearly causing a collision. When directed to exit her vehicle, Benson refused and reached down to the floorboard. She then rolled down her window and told Odum that he could not make her get out of her car because she was married to a prominent citizen.

Suspecting that Benson was intoxicated Odum opened the car door and saw that she was fumbling to find her shoes. Odum again directed Benson to get out of her vehicle and summoned assistance from Lt. Raymond Hoffpauier, a DWI specialist. Benson's apparent hostility prompted Hoffpauier to tape-record the ensuing events. The tape was played at the trial.

After Hoffpauier arrived, Benson screamed for help at passing motorists and ran onto the interstate waiving her arms right in



the path of an oncoming truck which nearly struck her. The officers physically escorted Benson to the shoulder of the highway and placed her under arrest. She was taken to jail and charged with an improper lane change, disturbing the peace, and resisting arrest. These charges were subsequently dismissed by the prosecutor, who viewed Benson as "very apprehensive and paranoid" and who thought the police were "part of a conspiracy to get her."

Benson claims that Hoffpauier handled her in a brutal manner, bruising her arms, hand, and knee. She also contends that the officers illegally searched her car. The officers responded that they made no search but conducted an inventory of the contents of the vehicle in compliance with standing orders.

Proceeding pro se, Benson invoked section 1983 and filed suit against Odum, Hoffpauier, Rick Fox, a third officer present at the scene, C. Paul Phelps, then secretary of

the Louisiana Department of Corrections, Colonel Wiley McCormick, then commander of the Louisiana State Police, and the State of Louisiana. After dismissal of all defendants other than the three officers, the case proceeded to trial before a jury which returned a verdict in favor of the defendants. Benson moved for a judgment n.o.v. or a new trial and appeals the rejection of that motion.

Analysis

We firmly established the standard for reviewing a denial of a motion for judgment n.o.v. in *Boeing Co. v. Shipman*, 411 F.2d 365, 374 (5th Cir.1969) (en banc):

On motions for directed verdict and for judgment notwithstanding the verdict the Court should consider all of the evidence -- not just that evidence which supports the non-mover's case -- but in the light and with all reasonable inferences most favorable to the party opposed to the motion. If the facts and inferences point so strongly and overwhelmingly in favor of one party that the Court

believes that reasonable men could not arrive at a contrary verdict, granting of the motions is proper. On the other hand, if there is substantial evidence opposed to the motions, that is, evidence of such quality and weight that reasonable and fair-minded men in the exercise of impartial judgment might reach different conclusions, the motions should be denied....

After reviewing the record, we agree with the observation of the district court that the verdict is not only supported by substantial evidence, it is supported by overwhelming evidence. In light of Benson's attitude and conduct and the dangerous situation she created on the interstate, we are persuaded, as the jury obviously was, that the officers were justified in their use of modest force to subdue and arrest her. Further, we find that the inventory search violated no constitutional right.

Nor are we persuaded that the district court erred in denying Benson's motion for a new trial. That decision "is within the

sound discretion of the trial court and will not be disturbed absent a clear showing of abuse of discretion." United States v. Horton, 622 F.2d 144, 147 (5th Cir.1980).

Benson maintains that she is entitled to a new trial because the district court demonstrated bias and prejudice towards her. She notes that at the start of the trial and in the presence of the jury, the Court congratulated defendant Fox on a recent promotion. This momentary lapse is not grounds for reversal. That is made doubly so because Benson declined the trial judge's offer to instruct the jury to disregard ~~that~~ comment as well as any other comment or ruling that might indicate bias or favoritism toward either party. Benson further argues that the district court made several statements in a "secret report" that ridiculed and embarrassed her. There is no suggestion that any such remarks were made in the presence of the jury, and, to the contrary, the record is replete with instances of the trial

judge assisting and accommodating Benson's pro se presentation. The district court did not abuse its discretion in denying the motion for a new trial.

We find no merit in Benson's contention that the trial court erred in dismissing her claims against the State of Louisiana and supervisory personnel for a failure to train the arresting officers. The evidence in her case falls far short of the threshold of that constitutional claim. See City of Canton v. Harris, 57 U.S.L.W. 4270 (U.S.Feb. 28, 1989).

Benson has filed in this court a "Motion for Leave to File Documents, Comments to Inform the Court, etc." and a "Motion for Leave to File New and Additional Information to Inform the Court in Support of Motion Filed on May 13, 1988, and Related Documents, etc..". These motions are denied; the material offered is merely cumulative. She also asks that we seal a "secret report" previously sealed by the district court. We do so.



The motion to seal that portion of the record previously sealed by the district court is GRANTED, the motions to file additional information are DENIED, and the judgment of the district court is AFFIRMED.



IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

LOUELLA F. BENSON

vs.

CIVIL ACTION NO.
85-1239-LC
(Judge Veron)

STATE OF LOUISIANA, ET AL

RULING ON PLAINTIFF'S MOTION
TO MAKE CORRECTIONS IN TRANSCRIPT

This matter is before the court on motion of the plaintiff Louella F. Benson to correct the transcript of proceedings held upon trial of the above captioned matter. The court notes its jurisdiction over the present motion under the FRCP, Rule 10(e).

Upon consideration of the plaintiff's motion and exhibits, and of the law, the court finds that the plaintiff's motion must be denied. Initially the plaintiff fails to show that a "difference" has arisen as contemplated by Rule 10(e) in that she has not shown the defendant's unwillingness to stipulate to the changes she proposes.

Assuming arguendo that a "difference" exists, the motion must still be denied.

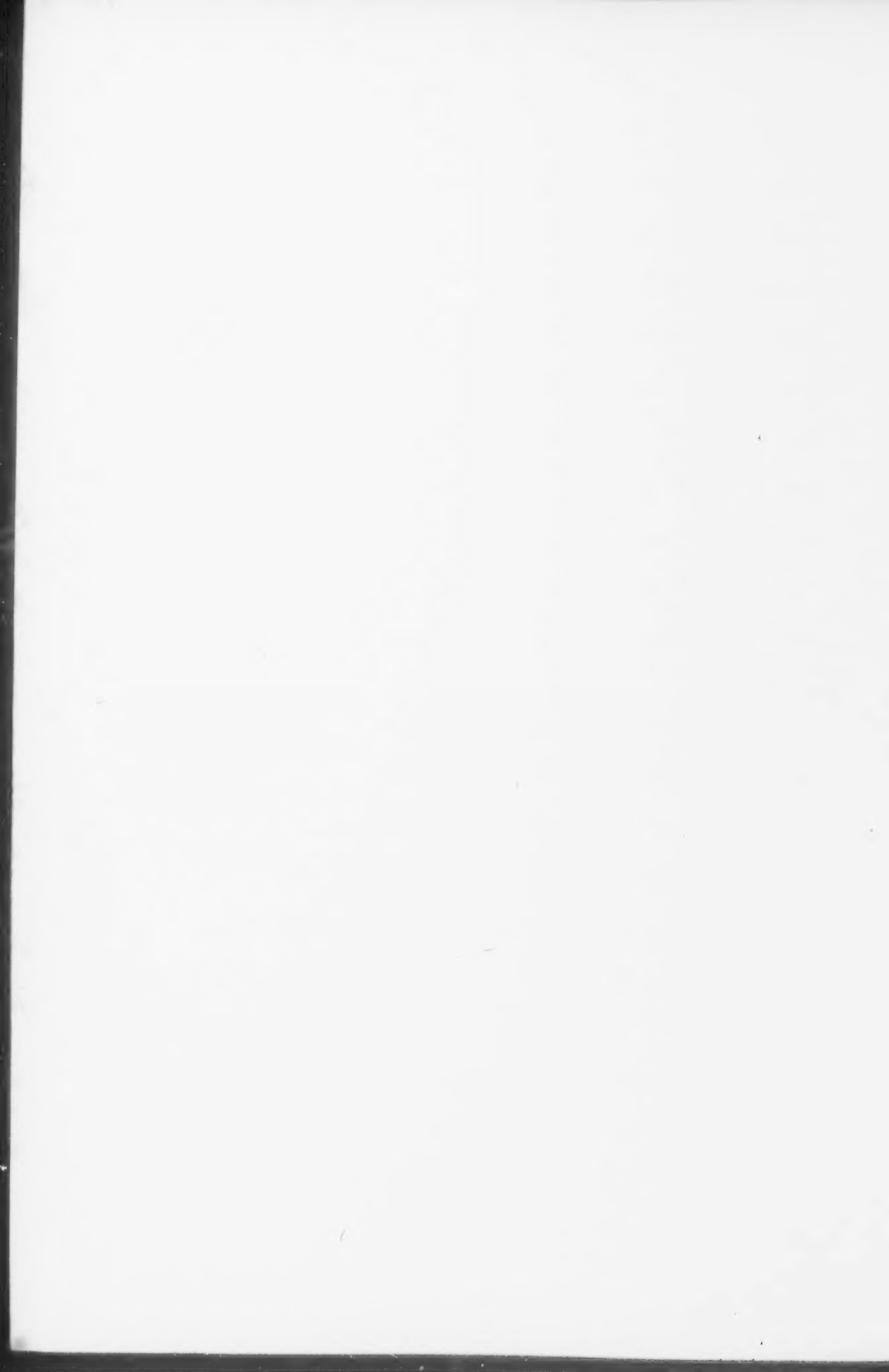


Many of the alleged discrepancies are instances where a similar word to the one spoken was transcribed, e.g., "state" for "estate" and "attacked" for "attached."

Such putative errors are harmless in that the court of appeal will have no difficulty discerning the meaning of the testimony from its context. Moreover, any confusion as to these segments of testimony, which are very collateral in nature, will certainly have no prejudicial effect on the plaintiff's appeal.

As for the instance where the plaintiff would substitute "and" for "but", the court fails to see how the exhibits support this change. Either conjunction results in the same sense, and the exhibit contradicts neither version.

As for the remaining proposed corrections, the court need only point out that the plaintiff's recollection alone is insufficient to prove that the transcript is in error, and that Rule 10(e) does not provide the



plaintiff an opportunity to substitute what she should have said for what she actually said.

Accordingly, the plaintiff's motion is hereby DENIED.

THUS DONE AND SIGNED in Chambers at Lake Charles, Louisiana, this 12th day of May, 1988.

Honorable
s/Earl E. Veron
United States District Judge

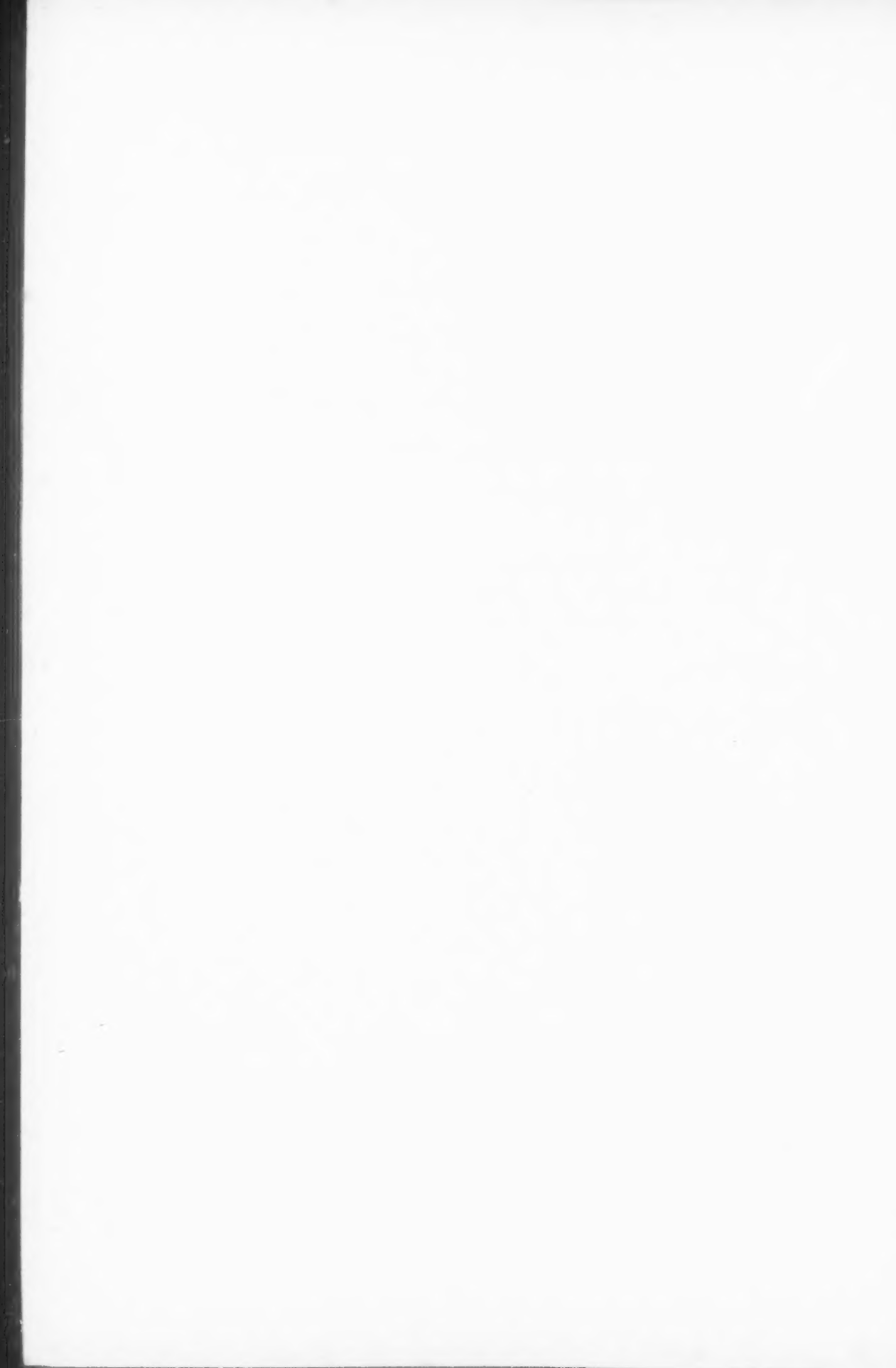
Copy sent:

Date: 5/13/88

BY SM

TO: Benson

Lorenzi



IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

LOUELLA F.BENSON

VS.

LT.RAYMOND HOFFPAUIR,
SGT.JAMES R.ODUM, and
SGT.RICKY FOX

CIVIL ACTION NO.

85-1239-LC

(Judge Veron)

U.S.District Court
Western District of
Louisiana

F I L E D

Feb. 8, 1988

Robert H.Shemwell,

Clerk By: In

Deputy

J U D G M E N T

This case came for trial by jury on February 1, 2, 3, 4 and 5, 1988. Based on the jury's answers to the interrogatories, a copy of which is attached;

IT IS ORDERED, ADJUDGED AND DECREED that there be judgment in favor of defendants, Lt. Raymond Hoffpauir, Sgt. James R.Odom, and Sgt. Ricky Fox, and against the plaintiff, Louella F. Benson, dismissing plaintiff's claims at plaintiff's cost.

TUS DONE AND SIGNED at Lake Charles, Louisiana, this 8th day of February, 1988.

Judgment entered:

2/9/88

By: L.Dragon

cc:Benson; Lorenzi

s/ Earl E. Veron

U. S. District Judge

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

CIVIL ACTION NO.85-1239

SPECIAL INTERROGATORIES TO THE JURY

1. Do you find from a preponderance of the evidence that any of the defendants violated the constitutional rights of Mrs. Benson?

Answer YES or NO next to each defendant's name.

James Odom

No

Raymond Hoffpauir

No

Ricky Fox

No

(If your answers as to each defendant in Interrogatory No. 1 are "No" proceed no further.....

SIGNED at Lake Charles, Louisiana, this
____ day of February, 1988.

S/ Carl L.
Foreperson



UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

LOUELLA F. BENSON CIVIL ACTION #85-1239 "LC"
Plaintiff JUDGE VERON
VS.

STATE OF LOUISIANA, ET AL
LT. RAYMOND HOFFPAUIER, Officially &
Individually, SGT. JAMES R. ODOM,
Officially and Individually, Officer
RICKY FOX, Officially and Individually,
CCL. WILEY MCCORMICK, Officially
C. PAUL PHELPS, Officially
STATE OF LOUISIANA, through the Department
of Public Safety,
CCL. WILEY MCCORMICK, Commander of Louisiana
STATE POLICE through DEPARTMENT OF PUBLIC
SAFETY (Under State Claim).
Defendants

MOTION TO AMEND ORIGINAL COMPLAINT WITH
LEAVE OF COURT

Pursuant to Rule 15 (a) (b) and (c) of the
Federal Rules of Civil Procedures, Plaintiff,
Louella F. Benson, pro se, moves this Court
for leave to amend in its entirety, the original
complaint filed by Plaintiff, by deleting
the caption in the original complaint as filed,
and changing it to read as it appears on this
Motion to Amend the Original Complaint.

Plaintiff, through undersigned counsel,
further seeks to amend the original complaint

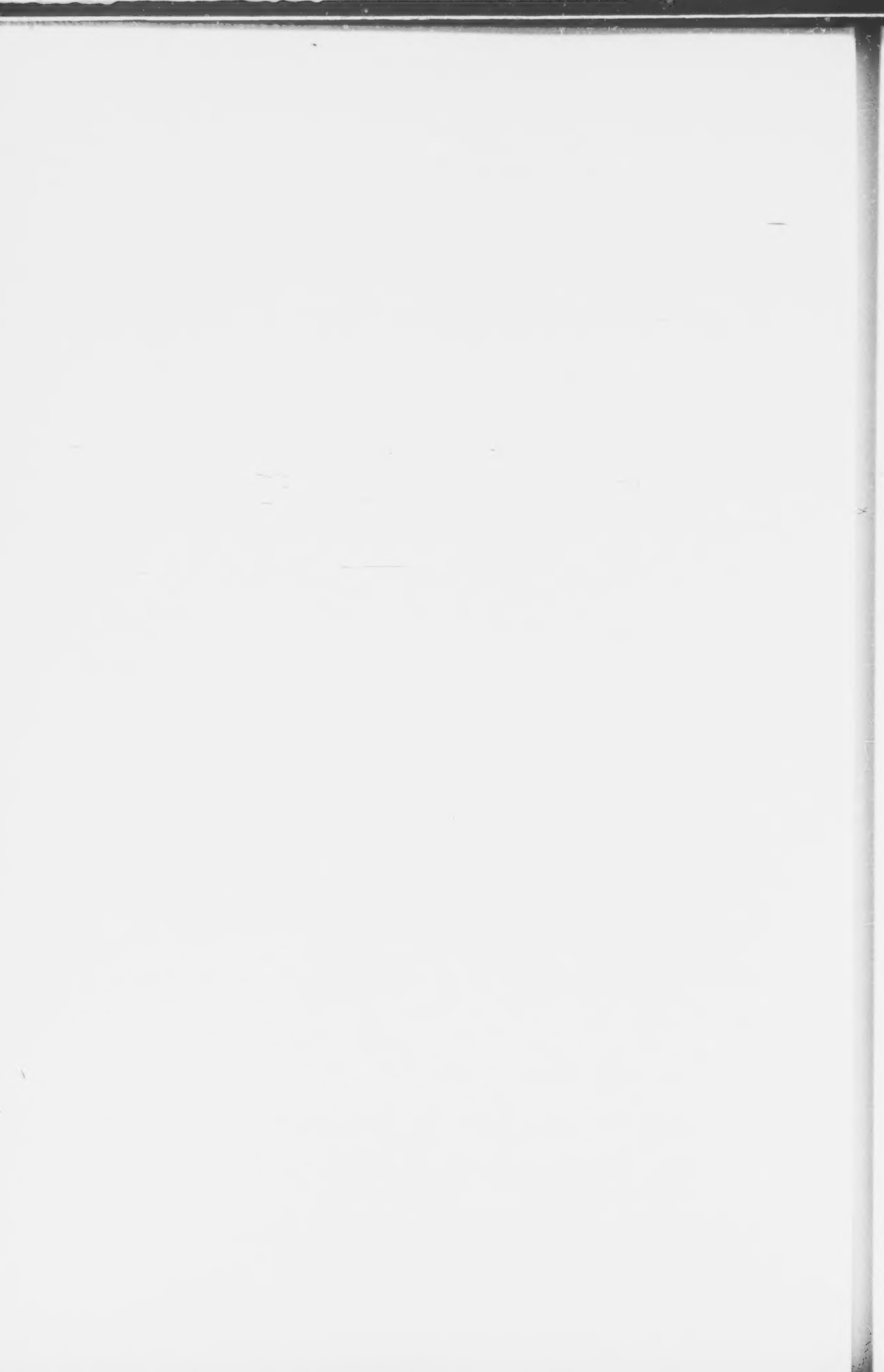
by deleting all paragraphs of said Complaint, and inserting therein the following:

JURISDICTION

1. The action arises under Federal question jurisdiction for violations of 42 U.S.C. Section 1983, and the First, Fourth, Fifth Sixth, Eight, and Fourteenth Amendments to the U. S. Constitution, privacy rights, Privacy Act of 1974 and USC 28 Section 1331.

2. Jurisdiction also arises under diversity of citizenship in that the Plaintiff is a resident of the State of Virginia, and all defendants are either residents of the State of Louisiana, or residents of Louisiana and another state other than Virginia. The amount in controversy exceeds TEN THOUSAND AND NO/100 (\$10,000.00) DOLLARS exclusive of interest and costs.

3. Matters complained of herein also are violative of the laws of the State of Louisiana (including the State Constitution) such that Plaintiff further invokes the pendent



jurisdiction of this Court to hear and decide all state claims as well and this Court has the power to do so.

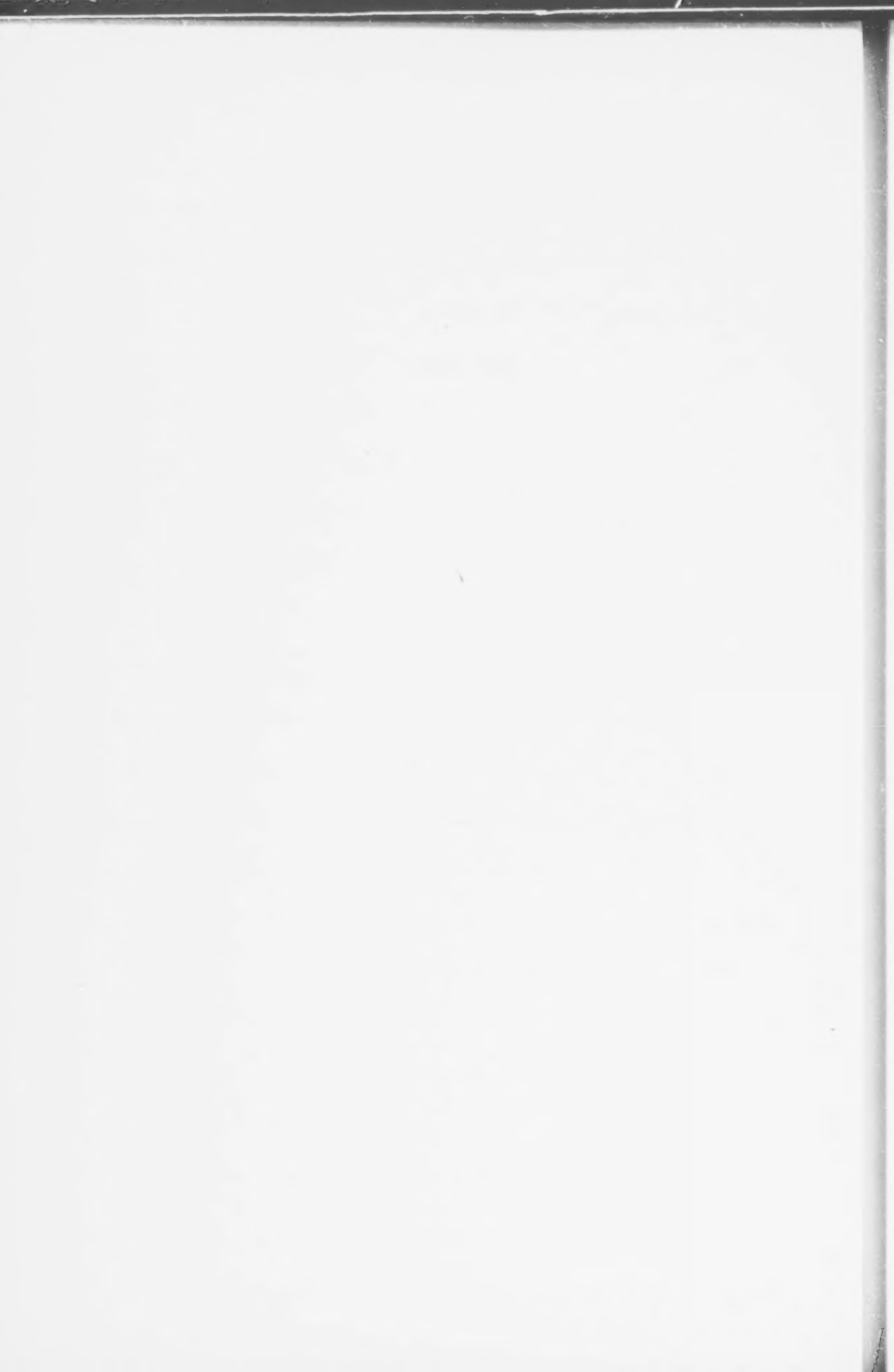
PARTIES

4. Plaintiff, LOUELLA F. BENSON, is a female, citizen of the United States, and administrative-secretary-bookkeeper who has worked for over eleven years with her husband, an engineer-economist and self employed.

5. Defendant, LT. RAYMOND HOFFPAUIER, now retired, is, upon information and belief, a resident of the State of Louisiana, and was a resident at all times relevant to this Complaint. He is sued in his official capacity and also individually.

6. Defendant, SGT. JAMES R. ODOM, is, upon information and belief, a resident of the State of Louisiana, and was so at all times relevant of this Complaint. He is sued in his official capacity and also individually.

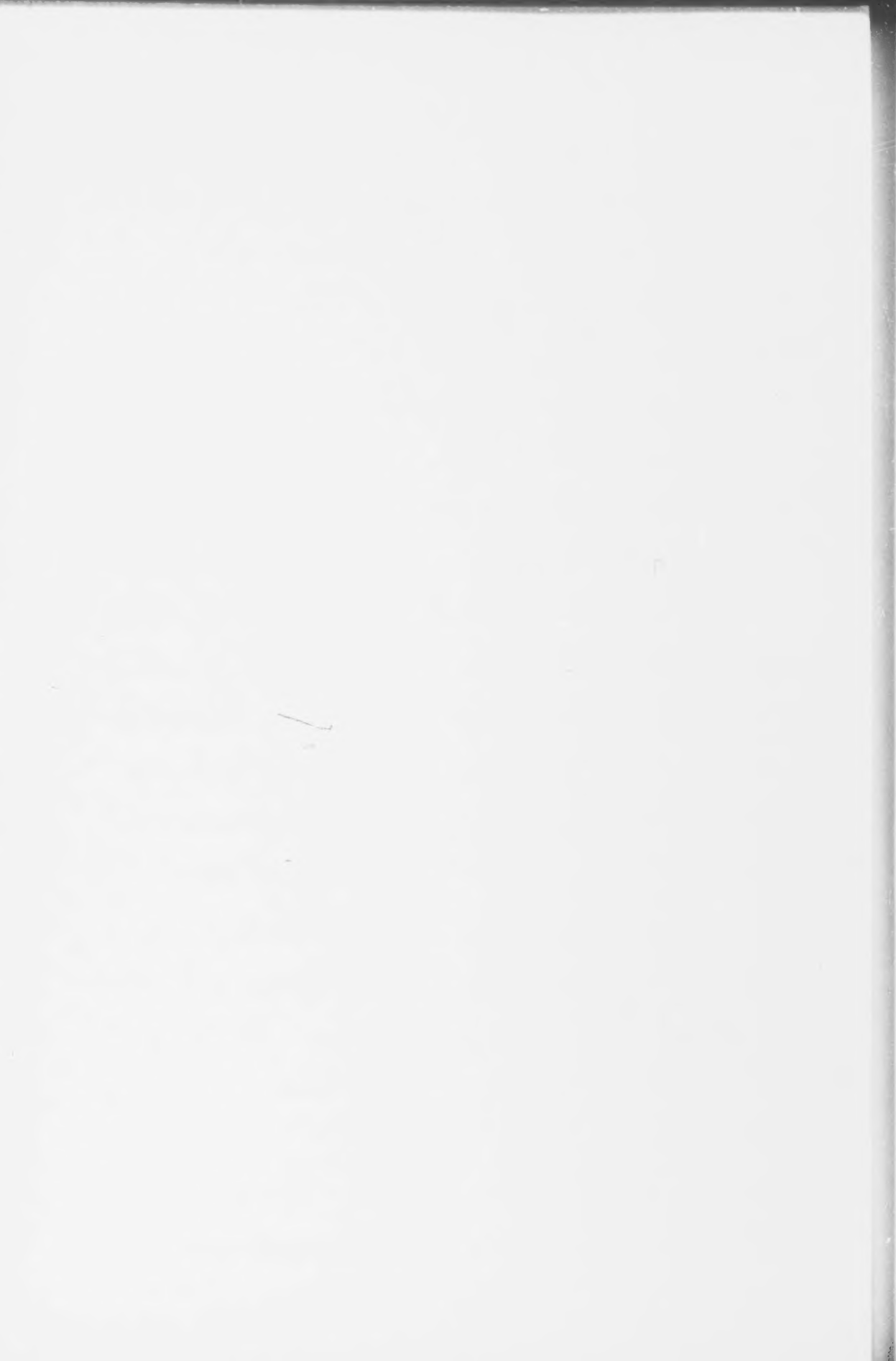
7. Defendant, COL. WILEY MCCORMICK, is and was at all times relevant to the incident



complained of herein a resident of the State of Louisiana. He is sued in his official capacity, and that he was charged with conducting an internal affairs investigation relative to the complaints filed by Plaintiff herein pursuant to being notified in writing, and failed to do so despite the fact that he was charged with the statutory and customary obligation to do so. At all times relevant he was acting under color of state law. Col. McCormick, as Chief or Commander of Police, has the ultimate responsibility to supervise and see that troopers are properly trained, and his failure to do results in the unconscionable acts alleged in this complaint.

8. Defendant, RICKY FOX, STATE TROOPER, is a resident of the State of Louisiana, and was so at all times relevant to this Complaint. He is sued in his official capacity and also individually.

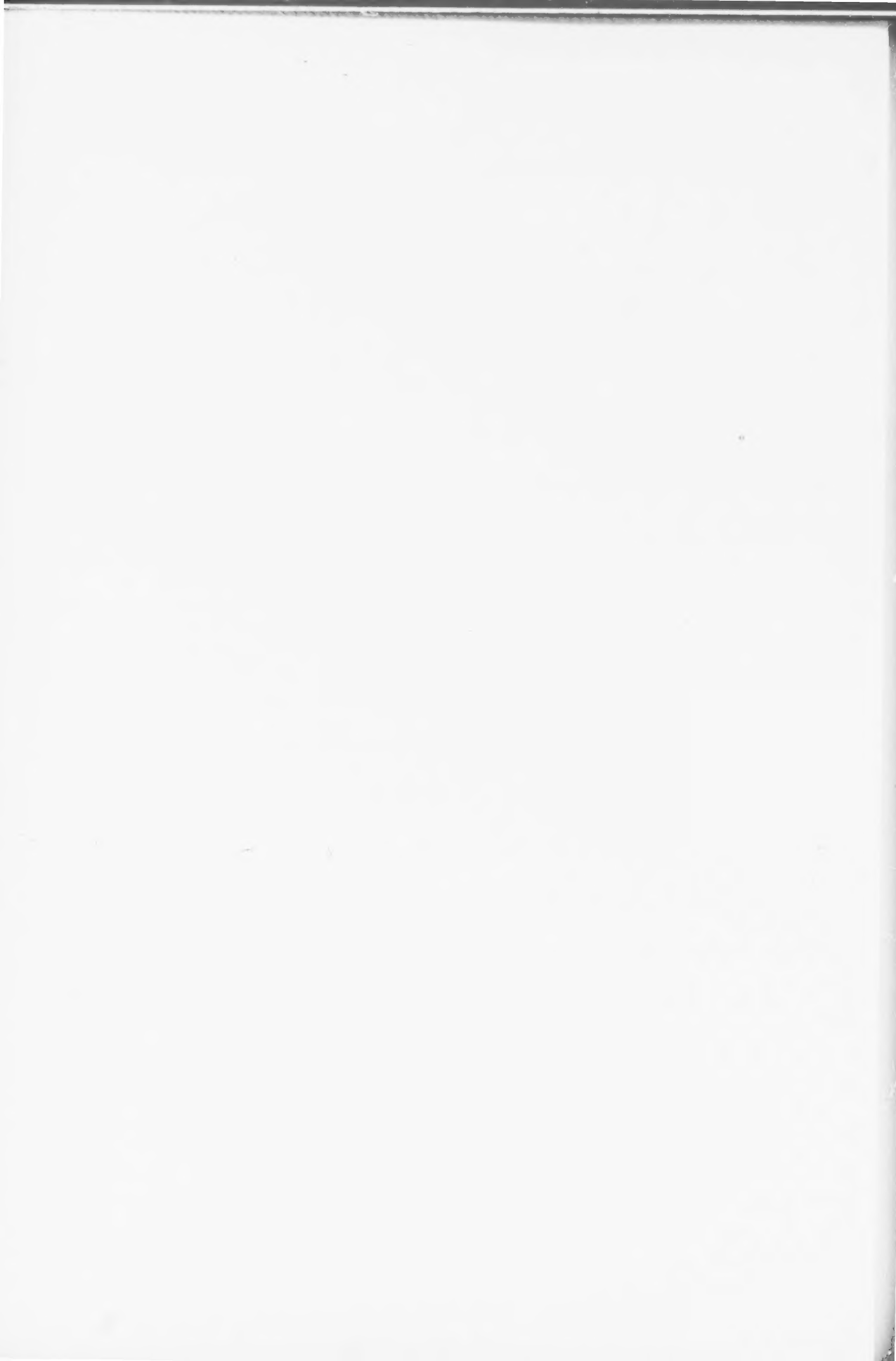
9. Defendant, C.Paul Phelps, is and was at all times relevant to the incident complained



of herein a resident of the State of Louisiana. He is sued in his official capacity in view of his executive responsibilities and FRCP Rule 4 (d) (6).

10. Defendant, State of Louisiana, as the employer of the Defendants with the responsibility to protect the rights of everyone at all times relevant and ongoing. The State of Louisiana is responsible for the actions of its employees.

11. XYZ INSURANCE COMPANY, upon information and belief, is and was at all times relevant to this Complaint, a corporation offering insurance, residing, and domiciled, and having its principal place of business outside of the State of Louisiana, and it was at all times relevant to this Complaint a foreign insurance company authorized to do and doing business in the State of Louisiana and having in full force and effect at the time of the incident complained of herein, a policy of insurance providing for the payment of any and



all damages awarded on behalf of Plaintiff in this matter for the conduct complained of herein.

12. The Defendant, STATE OF LOUISIANA, through the LOUISIANA DEPARTMENT OF PUBLIC SAFETY, is and was at all times relevant the employer of Defendants, HOFFPAUIER, ODOM, AND FOX. The STATE OF LOUISIANA is sued herein only for any cause of action arising under the laws of the State of Louisiana and before this Court as a result of this Court's pendent jurisdiction to hear and decide all such claims.

FIRST CAUSE OF ACTION

13. On the night-morning of May 5-6, 1984, Plaintiff was travelling on the roads of the State of Louisiana, in, information and belief, the Parish of Calcasieu and was travelling to the State of Texas. Plaintiff was not very familiar with the roads and had noticed a sign saying that US 90 West for the road to Texas was in the area of the bridge. After looking behind her, and verifying there were no cars, Plaintiff gave a signal and changed

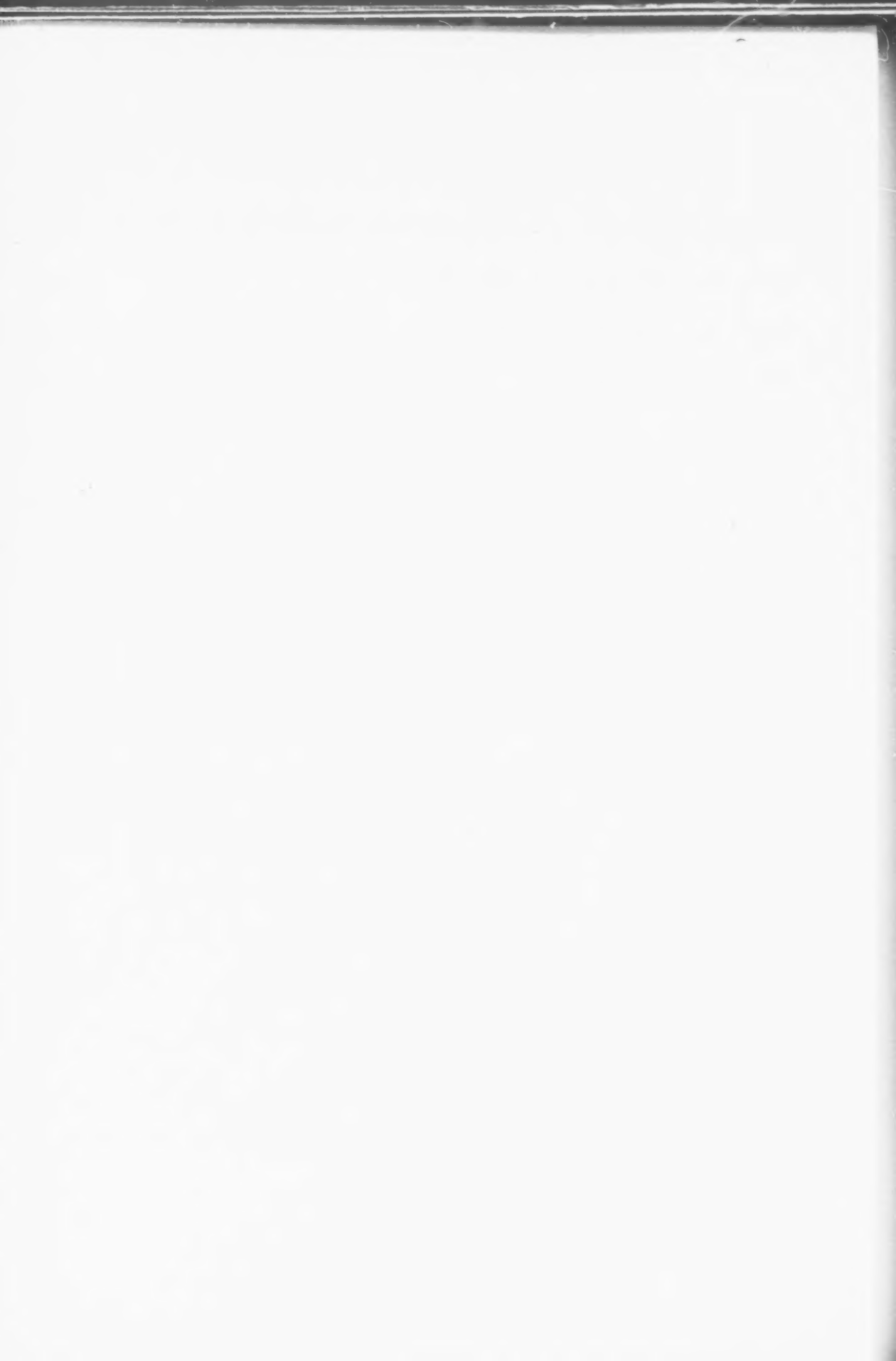


lanes for the road to Texas. Plaintiff noticed police behind her at certain points between Lafayette and Lake Charles. (See last sentence of page 5.)

14. Plaintiff travelled on, at no time did any car toot at her or anything, other than she later heard a siren and looked behind her seeing a police car in back and thought there was an emergency of some kind at that time, and she gave a signal and moved to the right and stopped.

15. At that time, while Plaintiff was sitting in her vehicle, Defendant Odom, approached Plaintiff, told her to get out of the car, that she was going too slow and also that he was searching for weapons and drugs, which became improper use of lane.

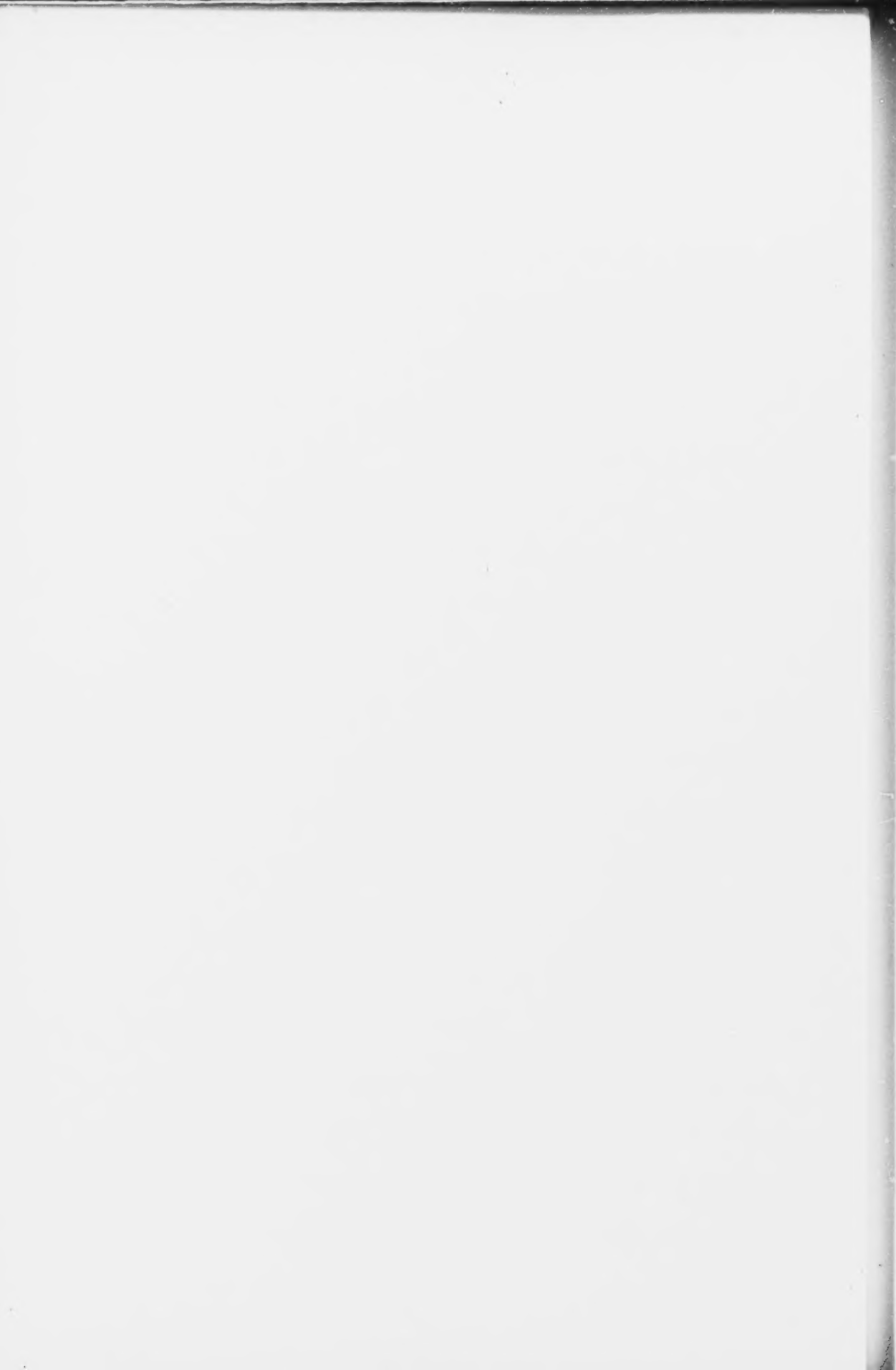
16. At that time Plaintiff assured Defendant that she not only had never owned a weapon but that she did not have any drugs or weapons and she nad never gone near drugs so she objected to being searched.



17. Defendant ODOM, then inquired whether or not Plaintiff had been drinking, apparently alcoholic beverages to which she responded no. She further showed him a vanilla malt container which she had purchased in Lafayette, Louisiana before leaving on the same evening. At this time, while acting under authority of State law, Defendant had all of the accouterments of a State Trooper including a vehicle with a siren and marked as Louisiana State Trooper, a gun, badge, and functioned as a State Trooper.

Plaintiff had left a letter with the Sheriff in Crowley the evening before regarding a serious problem she was having with her brother-in-law who is a policeman (deputy sheriff).

18. Thereafter, Defendant HOFFPAUIER arrived and was laughing at plaintiff. He also inquired if Plaintiff had weapons or drugs and whether or not she had been drinking and he was very brutal. Plaintiff tried to tell Defendant HOFFPAUIER that she had not been drinking, that she drank very little due to a heart

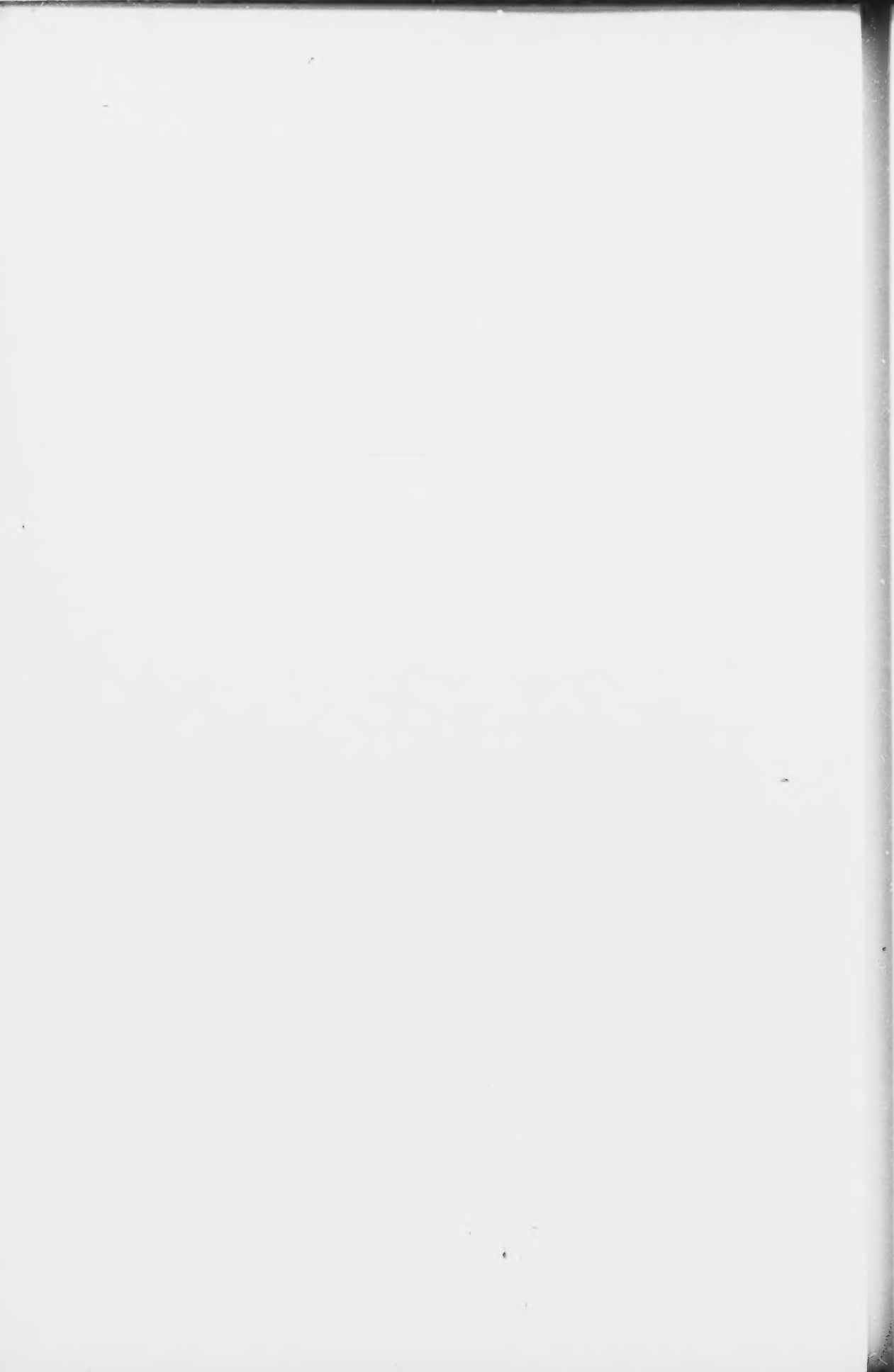


condition, told him of the malt, and that she had never owned a weapon nor went near drugs.

19. Defendant HOFFPAUIER grabbed Plaintiff's arm which left marks for sometime, and for no apparent reason, and without provocation, pushed her such that she fell leaving a bruise on her leg which remained for sometime afterwards due to his brutality.

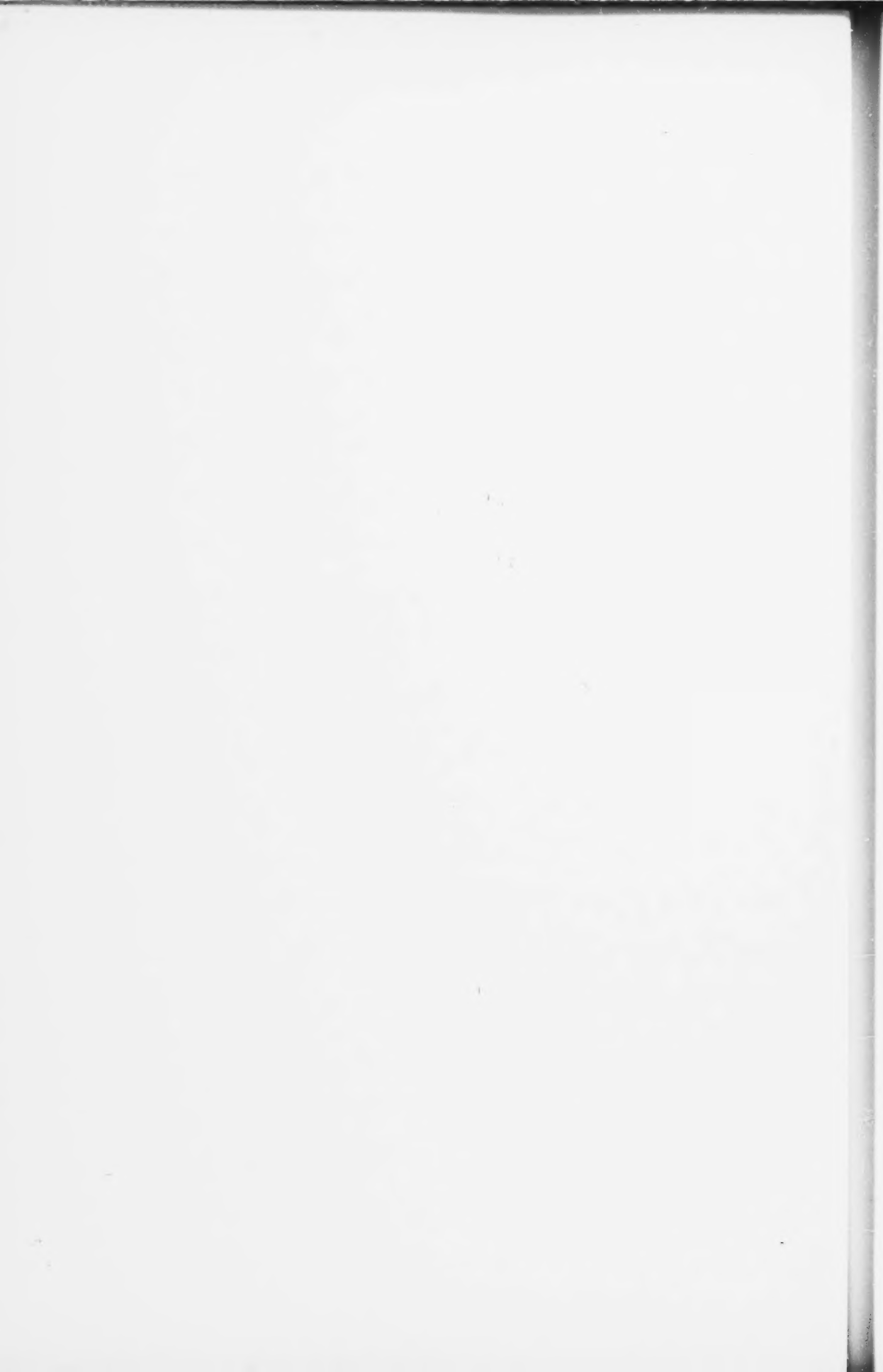
20. After the laughter and HOPPAUIER's brutality, Plaintiff was very afraid and asked permission of Odom and Hoffpauier to go across the street and call a lawyer, however, she was informed that she could not leave and refused permission to call a lawyer.

2. Plaintiff further tried to signal a car to stop by waving from the side of the road (which became disturbing the peace and resisting!) because there were two of them; she was trying to secure a witness for help and informed defendants that she was going to file a complaint.



22. At that time HOFFPAUIER told Plaintiff that he was going to lock her up, placed handcuffs on her and both Defendants Odom and Hoffpauier began laughing, indicating codes they would charge plaintiff with.

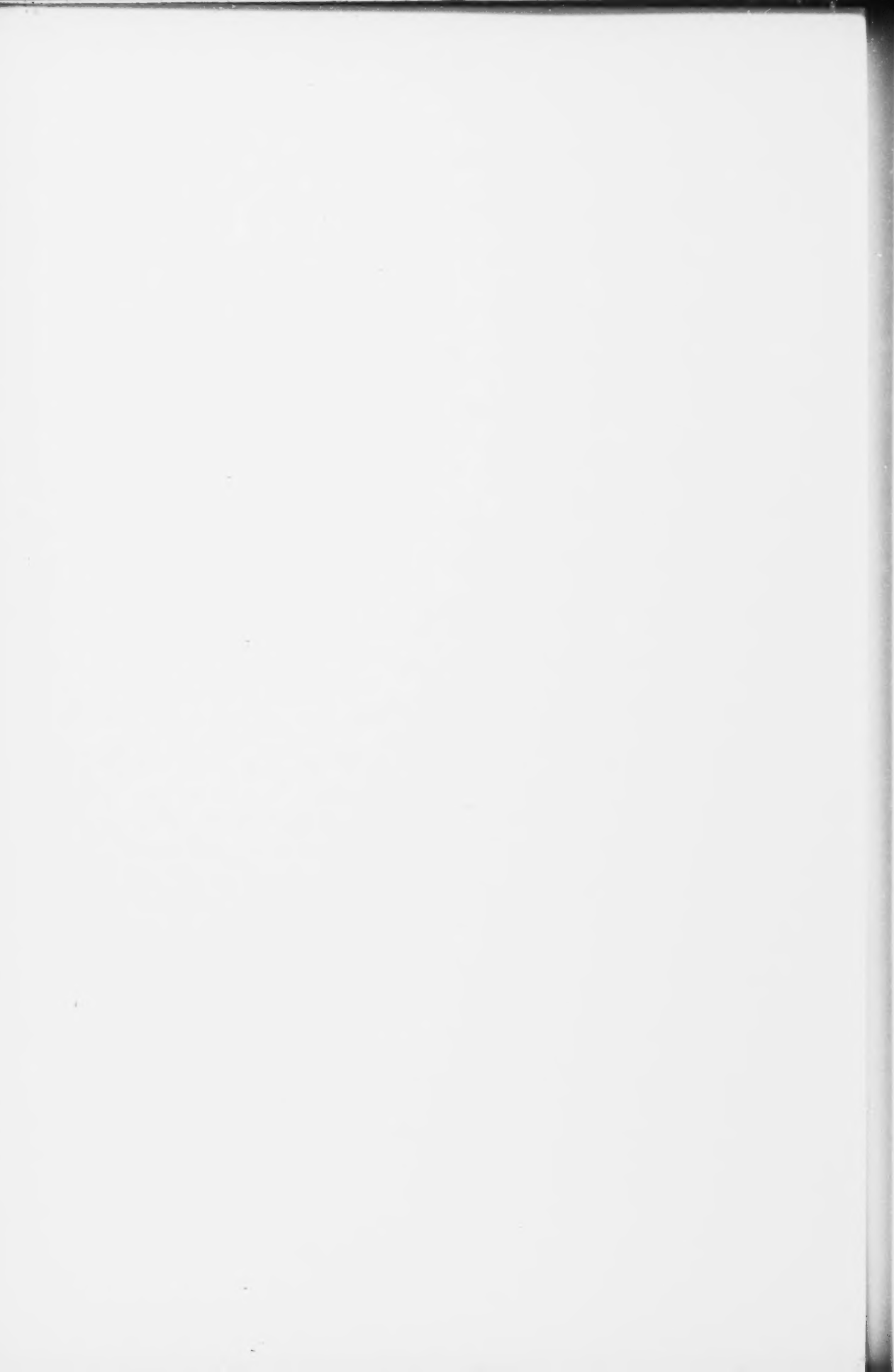
23. At no time, was Plaintiff ever provided any warrant for her arrest, and in fact no warrant exist such that her arrest was a warrantless one; and, there was no warrant allowing any search of her vehicle whatsoever nor at any time did Plaintiff consent to a search of her vehicle, nor did she consent to any searches, and since there were no exigent circumstances existing, inasmuch as Plaintiff was placed under arrest, handcuffed, and removed from the area the vehicle, and apparently stopped for going too slow, looking for drugs and weapons, there was absolutely no reason whatsoever countenanced under law to conduct a search of the vehicle, her possessions and legal documents or reading legal and private documents.



24. After handcuffing Plaintiff, a third officer arrived, a blonde headed man, Defendant RICKY FOX. Upon the arrival of Defendant FOX, they then proceeded with a wholesale search of the entire vehicle. Plaintiff had a copy of a letter on the front seat regarding legal matters addressed to a lawyer which she had written and dropped at the lawyer's office before leaving Lafayette. She had no drugs or any type of weapon. Further, she had a brief case which contained numerous papers relating to legal matters, which was removed, opened, while Defendant Hoffpauier held a flash light as the others read her confidential legal papers.

25. Defendant Fox asked Defendants Odom and Hoffpauier if they knew who they had arrested. Then all of Plaintiff's luggage including her purse was searched and no Defendant present on the scene with any supervisory authority did anything to prevent this search, but they all conducted the search.

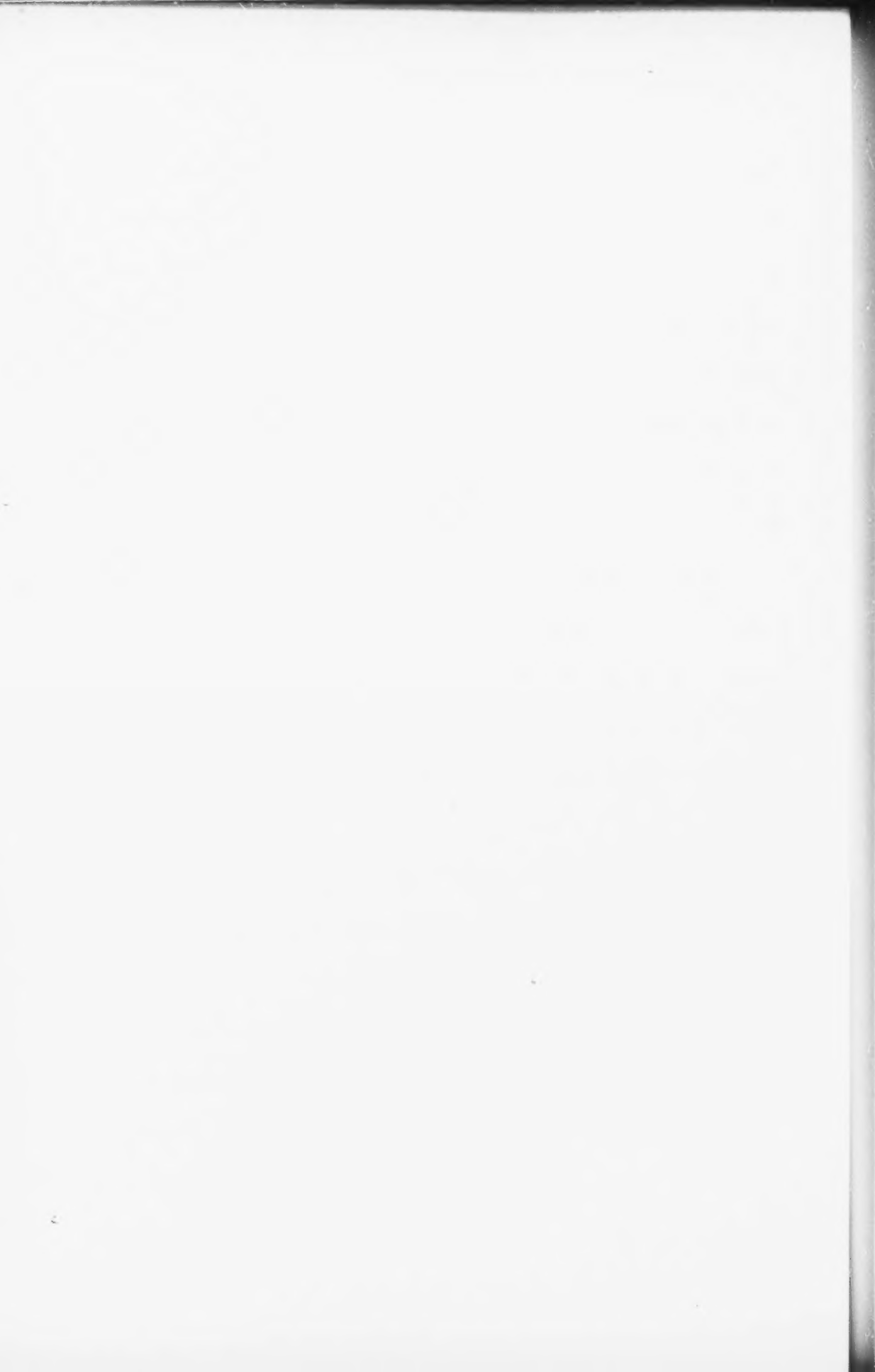
25 A. In addition to stopping her from



"going on her way" and other allegations in this complaint, the defendants have caused plaintiff general damages of humiliation and embarrassment, much undue expense and inconvenience and time by their harrassment and intimidation and other violations alleged in complaint.

26. Plaintiff was further asked if she had anything valuable to which she responded she had an expensive diamond and jewelry in a small purse in her suitcase.

27. For no apparent reason, Defendants made fun of this remark as though it was her imagination and before looking in small purse in suitcase. Plaintiff tried to tell them she was a responsible person and married to a highly regarded professional man, whom she works with. Plaintiff, who had been working on her farm on the day of incident complained of had not taken time to change, and was not dressed in her normal fashion, but this is no basis to warrant the conduct of the Defendants complained of herein and she did nothing to



justify violating her rights.

28. Further, Defendant Odom was furious because plaintiff did not tell him at first where she was going--since she was not doing anything wrong, she did not feel that was any of the police's business. The Plaintiff was on her way to join her husband in Texas to return to Dulles; that she may have been driving slower than usual was due to unfamiliarity with roads late at night.

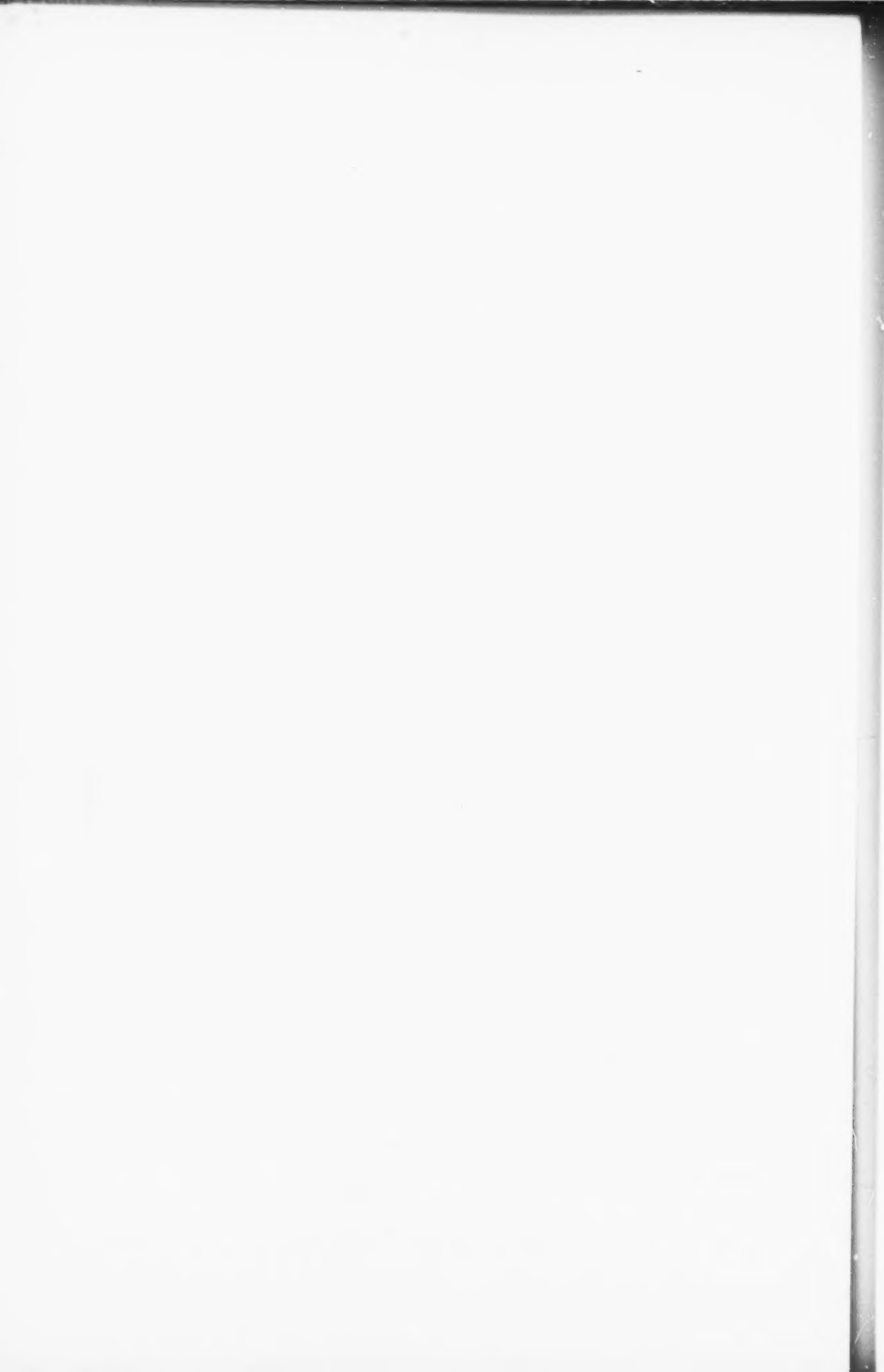
29. After Plaintiff was handcuffed, Plaintiff was left in the back of the police vehicle handcuffed with all of the windows up and the engine off, insufficient air, and earlier she was left outside in the street in the middle of the night for sometime. Plaintiff was transported to the Sulphur Police Station (which is where she was left in closed car), and she was fingerprinted and photographed. Only at the Sulphur Police Station was she allowed to call a lawyer during her booking and processing which was conducted not by Defendants herein but by the local police depart.



30. Plaintiff had been charged with improper lane usage, disturbing the peace, and resisting arrest, upon information and belief.

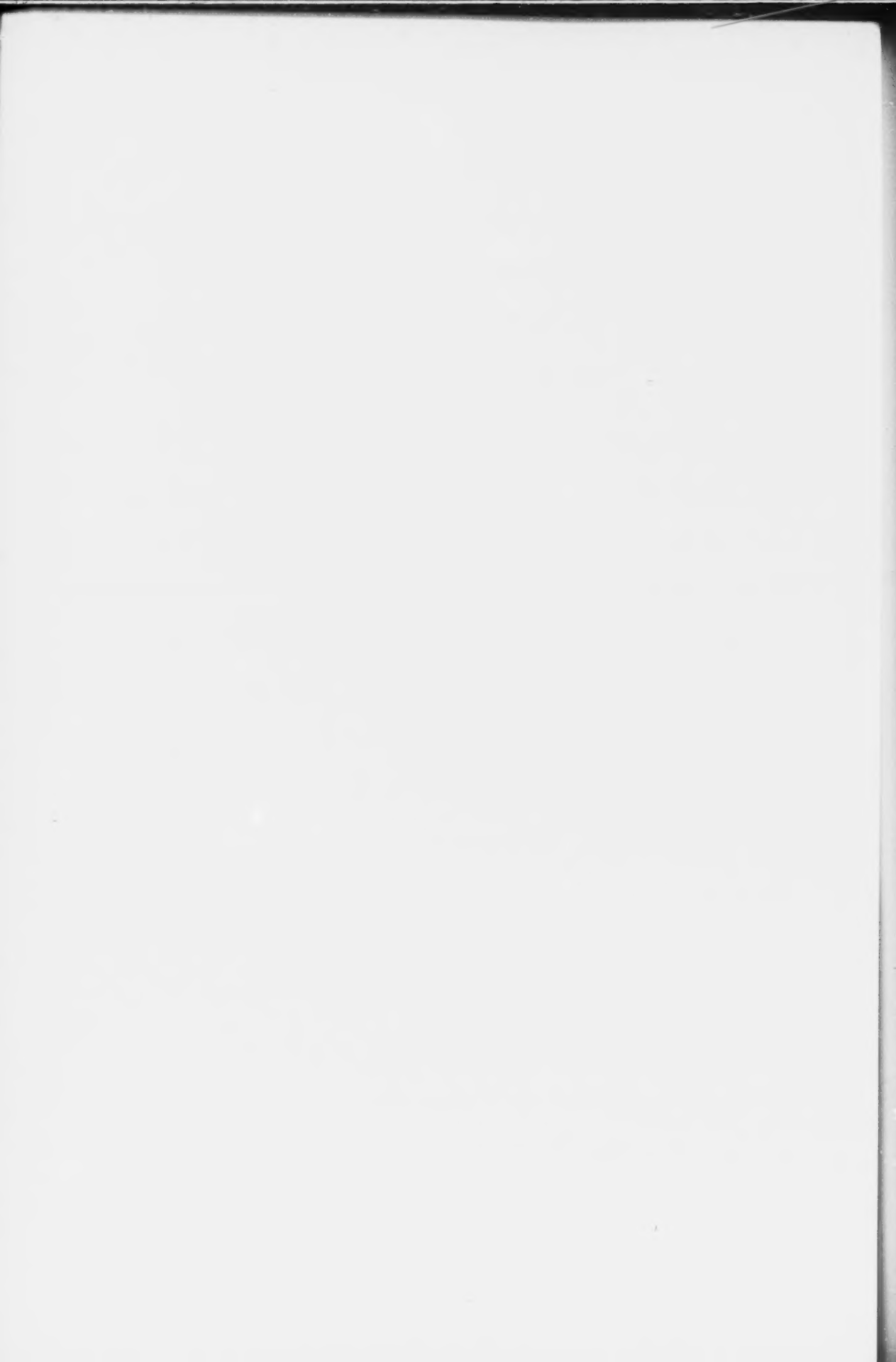
31. Plaintiff then called her neice who made necessary bond arrangements and was provided a number to call where she could retrieve her vehicle which had been towed by Defendants or under their direction or request and inasmuch as no one was present where the vehicle had been towed, Plaintiff was required to wait until much later. At 3:15 a.m., Plaintiff, who was exhausted over this entire escapade, left a letter of complaint for the Chief of State Troopers in Lake Charles and then another letter at approximately 11:00 a.m. asking for help to get her car. The plaintiff was left without a tooth brush, clean clothes or glasses until 11:00 a.m. after she was falsely arrested and treated like a criminal, illegally searched and kept from "going on her way", etc. and all without any warrants.

32. Plaintiff's Miranda Rights were not given to her until later when Defendants were just



about finished and had her handcuffed in the back of their car and they were ready to drive her to the police station. The police do not have a right to create charges to protect themselves from unwarranted brutality, etc.

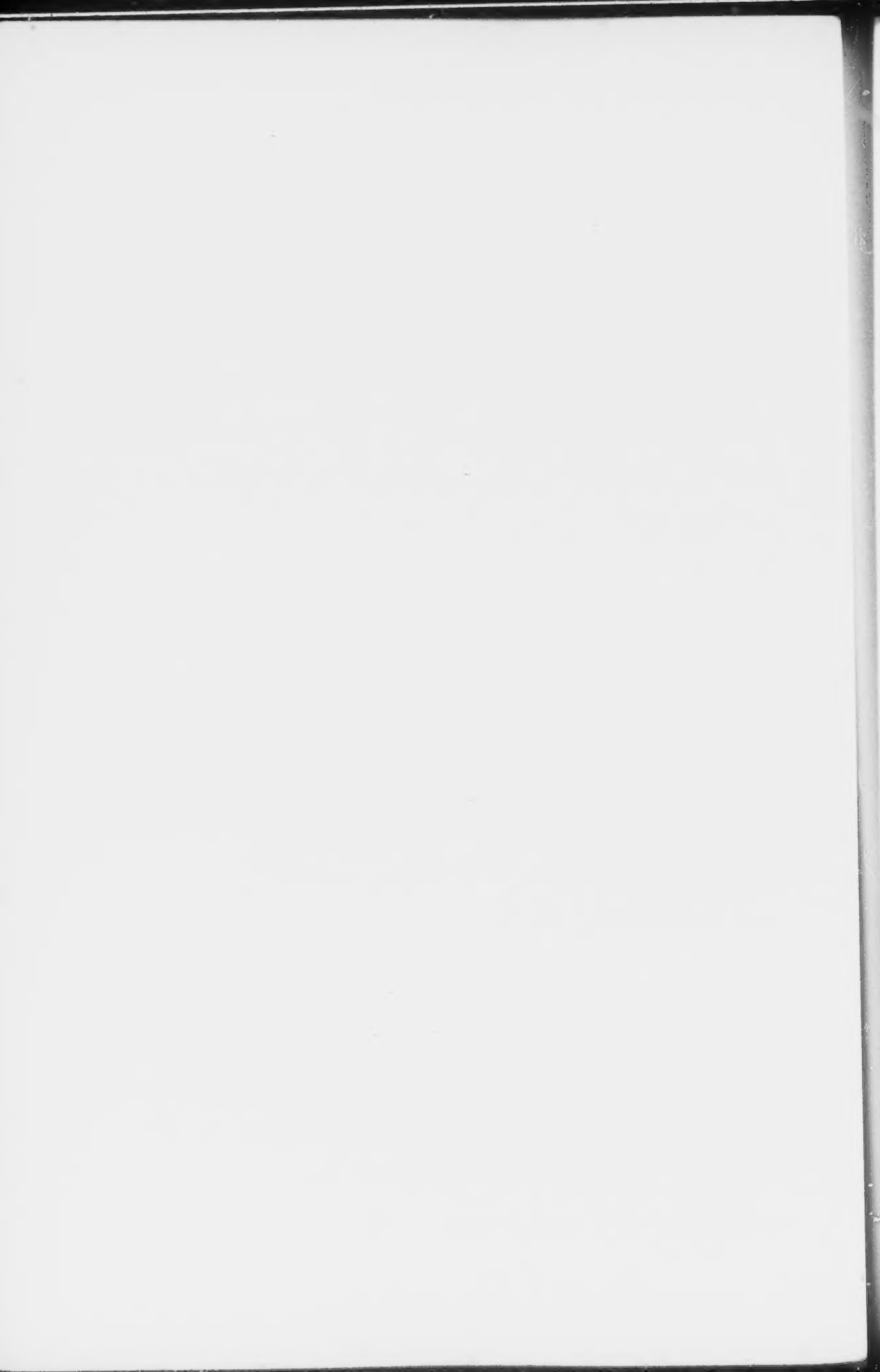
33. Subsequent to her arrest and treatment outlined above, Plaintiff had to return to Lake Charles to make arrangements to face trial once and after the trial date was set in Lake Charles, the date was changed and Plaintiff was not notified and neither was her lawyer. Plaintiff had purchased a ticket from Houston to New York to Cario, Egypt and because of the changed trial date she lost the fare from Houston to New York in view of the airline regulations. Plaintiff and her husband again travelled to Calcasieu Parish from Virginia for the trial, only to be informed that the charges pending against her and lodged by Defendants Odom, Hoffpauier and Fox had all been dropped when she and her husband appeared at the Courthouse and was also told



then that the Judge told troopers they did not have a case. Plaintiff was told troopers had second thoughts.

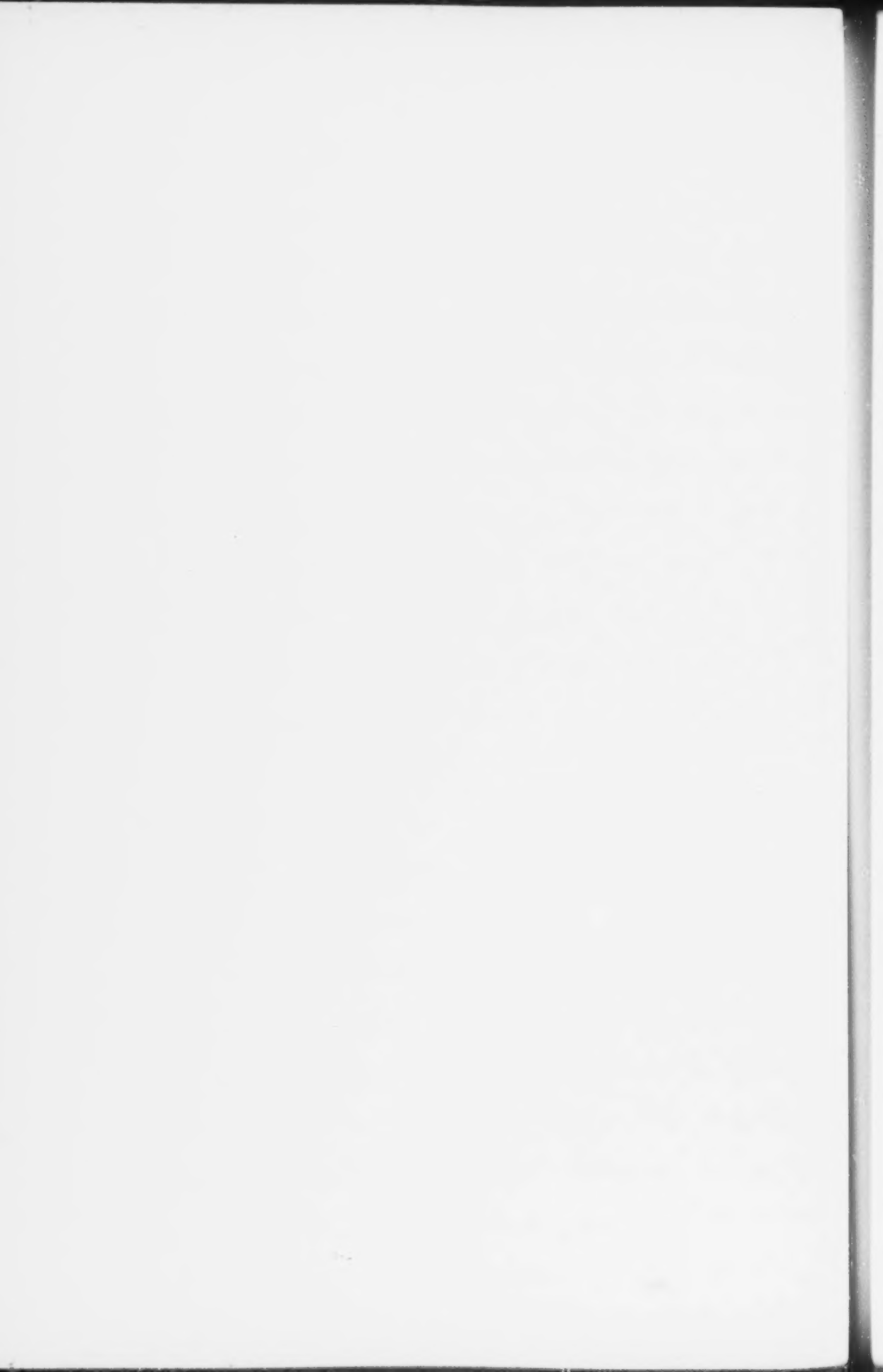
34. Plaintiff made several attempts to obtain a copy of any internal report regarding this matter and was denied such report inspite of having invoked the Freedom of Information and Privacy Act.

35. Further, upon information and belief, any person who is arrested, whether falsely and without probable cause or not, has their name published in the local newspaper and they are held up to public view as a person who, although not convicted of any crime, is regarded by the general public as a criminal. Additionally, the arrest and record created for the computer is maintained by the Louisiana Department of Public Safety and although any record contained regarding the charges filed against her are to be expunged, it is a common practice that the fact of her arrest is now indelibly contained by the computers in the Federal Bureau



of Investigation. Upon information and belief, this record will not be expunged by the Federal Bureau of Investigation at any and all times in the future where there is an inquiry from any law enforcement agency, a record of Plaintiff's arrest will thereafter be disseminated. Plaintiff was 49 years old, and up to that time only received parking tickets. Arrests give the police control over people. What about the future consequences of this arrest record in her life, privacy issues, employment checks and other areas, not to mention the increased vulnerability of being stopped again.

36. Additionally, the false arrest of Plaintiff was made public to such a degree as to be used against her in a civil matter by the Parish of Calcasieu. The false arrest has since been published and circulated to use against her by adverse party in a case regarding her property rights in which the Defendant in that case (the wife of the deputy sheriff brother-in-law policeman) wrote that



plaintiff had been arrested and brought to jail when she carried a letter of complaint to the Crowley Sheriff.

37. At all time relevant to this complaint, Defendant XYZ INSURANCE COMPANY, had in full force and effect a policy of insurance providing for the payment of any damages awarded to Plaintiff as a result of the acts and omissions of Defendants while acting in an official capacity, but also for constitutional violations and violations of 42 U.S.C. Section 1983. Upon information and belief, the policy of insurance in full force and effect also made provisions for the payment of any awards of punitive damages. As a result, and under the direct action statute in effect for the State of Louisiana, relative to insurance companies, XYZ INSURANCE COMPANY, is made a Defendant, ex contractu.

38. Plaintiff alleges that contained in the above described incident, is a cause of action for false arrest in violation of



federal statutory and constitutional authorities cited herein. Also, in that her right in persons of her choice, so her other rights to privacy were violated by Defendants-troopers. Depriving her of her liberties were violation of both 14th Amendment and Louisiana Law.

SECOND CAUSE OF ACTION

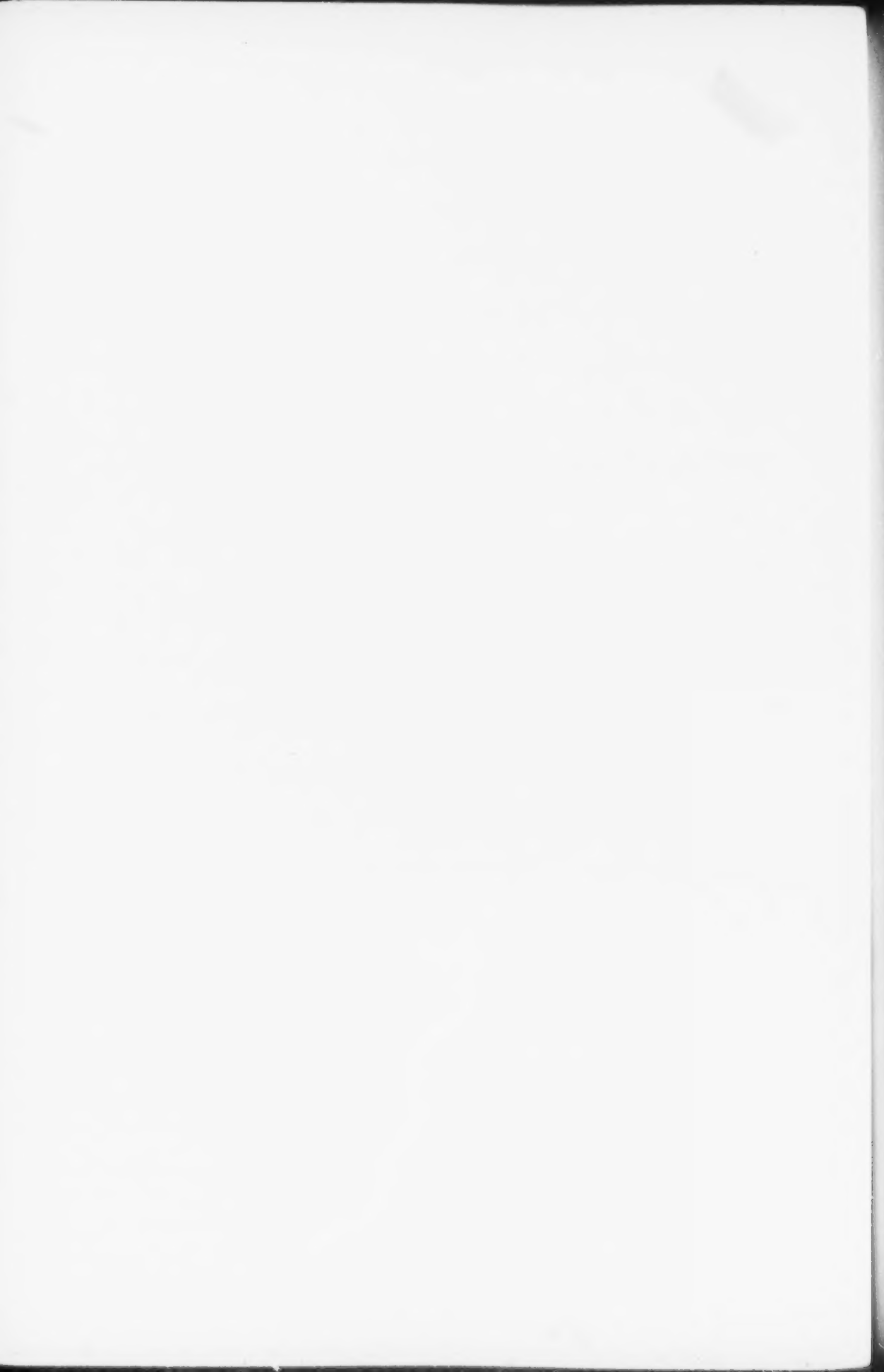
39. Plaintiff incorporates Paragraphs 1 through 38.

40. Plaintiff alleges that Defendants violated her right to be free from unreasonable search and seizure such that a cause of action arises under the above cited federal statutory and constitutional authorities.

THIRD CAUSE OF ACTION

41. Plaintiff incorporates the allegation of Paragraph 1 through 40.

42. Plaintiff alleges that a cause of action exist under her right of privacy and also her right to freely associate without interference as secured under the First Amendment of the U.S. Constitution and 42 U.S.C. Sec.1983.



FOURTH CAUSE OF ACTION

43. Plaintiff incorporates the allegations of Paragraph 1 through 42.

44. Plaintiff alleges a cause of action exist as a result of the incident complained of herein and that Defendants violated her right to counsel secured under the above cited Federal and Federal statutory and Constitutional authorities. Defendants ignored her Miranda Rights until they were almost finished.

FIFTH CAUSE OF ACTION

45. Plaintiff alleges a cause of action exist and arises under the Laws of the State of Louisiana, particularly but not exclusively Louisiana Civil Code Articles 2315, et seq. with the acts and omissions described above on the part of Defendants constitute negligence causing the damages sustained by Plaintiff herein.

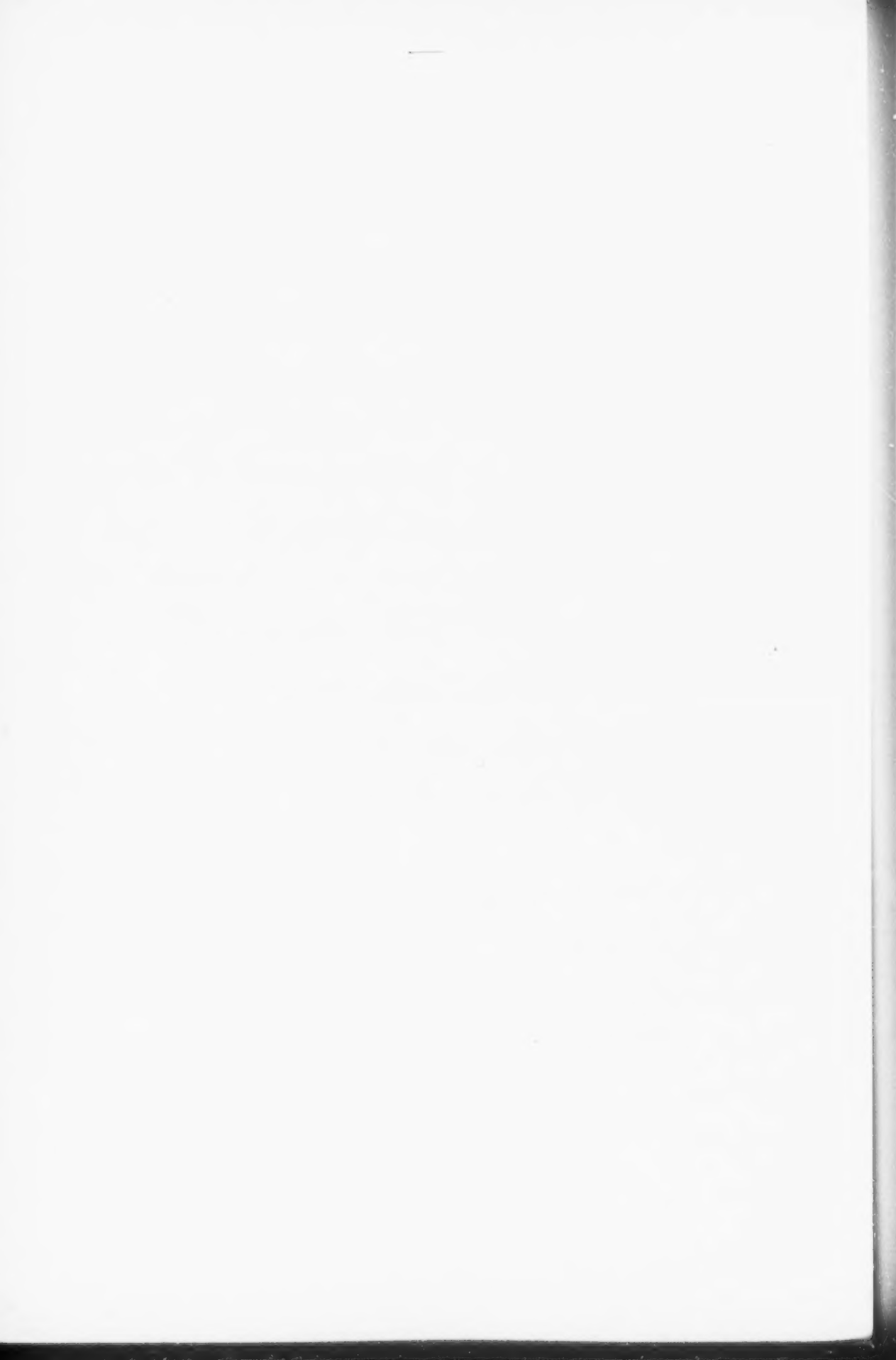
4. Plaintiff further alleges that she was battered which is a further violation of the laws of the State of Louisiana which caused her damage.



47. The STATE OF LOUISIANA through the DEPARTMENT OF PUBLIC SAFETY is made a Defendant herein only under claims arising under the State laws of Louisiana inasmuch that at all times relevant Defendants were acting within the course and scope of their employment, and under Respondent Superior the STATE of LOUISIANA, through the DEPARTMENT OF PUBLIC SAFETY is responsible for any and all damages sustained by Plaintiff which were caused by Defendants, ODOM, HOFFPAUIER AND FOX.

48. Defendant XYZ INSURANCE COMPANY, is also made Defendant under the laws of the State of Louisiana by virtue of its obligations ex contractu.

WHEREFORE, Plaintiff, Louella F. Benson, prays for judgment against Defendants Odom, Hoffpauier, Fox, Col. Wiley McCormick, C. Paul Phelps, and XYZ Insurance Company, jointly and severally and in solido, for all causes of action arising under Federal statutory and constitutional authorities in the following



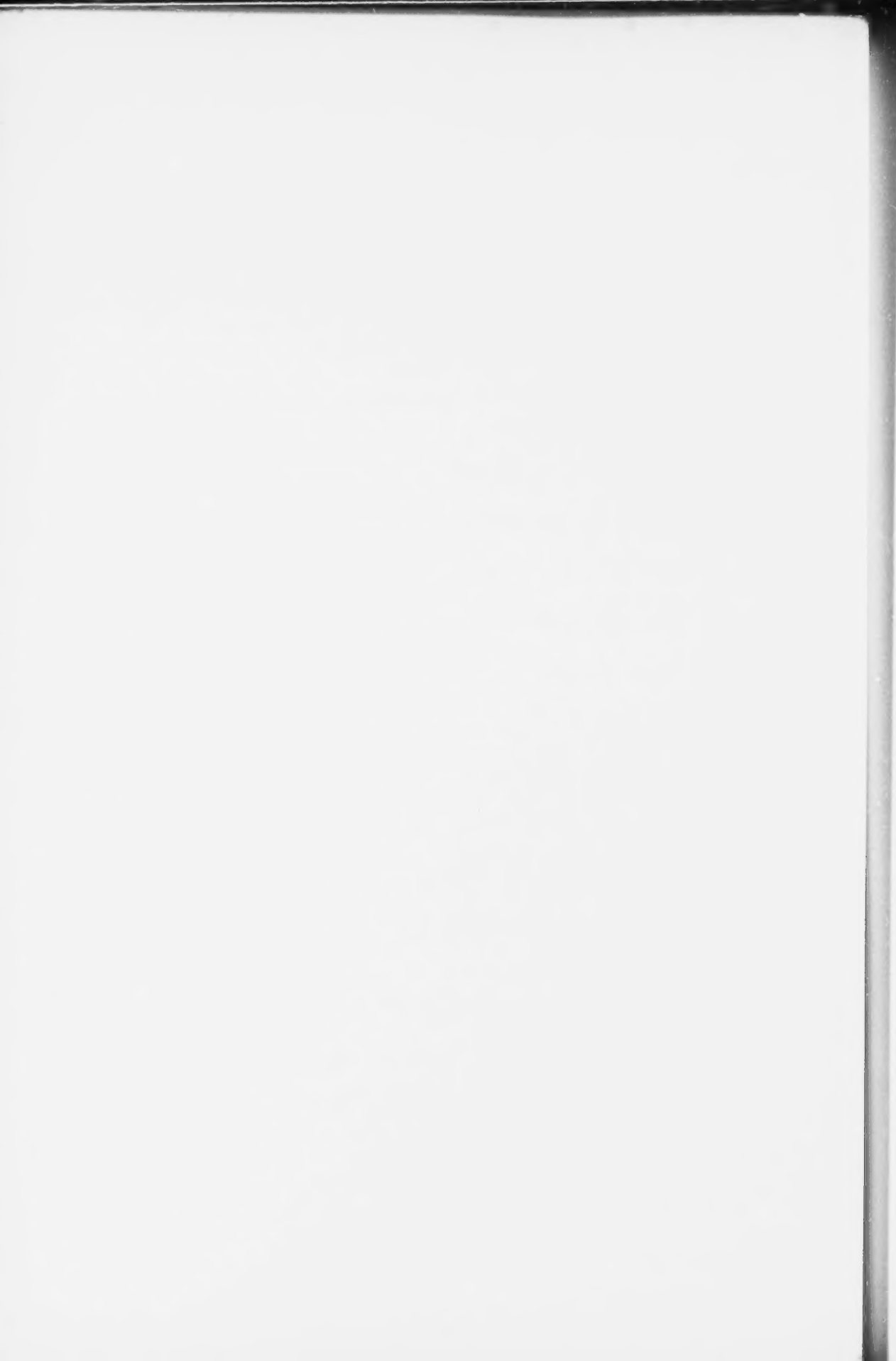
sums:

- 1) Compensatory damages in excess of \$10,000.00;
- 2) Punitive damages in excess of \$10,000.00,
- 3) Reasonable attorney's fees;
- 4) All costs of these proceedings provided by this Court.

Additionally, Plaintiff, LOUELLA F.BEN-SON, prays for judgment against Defendants Odom, Hoffpauier, Fox, Col. Wiley McCormick, C.Paul Phelps, and the State of Louisiana through the Department of Public Safety, XYZ Insurance Company, jointly and severally and in solido, for all damages arising under all causes of action arising under the State of Louisiana in the following sums:

- 1) Compensatory damages in excess of \$10,000.00;
- 2) Reasonable attorney's fees;
- 3) All costs of these proceedings;
- 4) All general and equitable relief granted by this Court.

Plaintiff requests and prays that in accordance with Federal Rule of Civil Proc.15,



that leave of Court be granted and that the original complaint be amended as indicated above in its entirety. I reserve the right to implead other defendants.

Respectfully submitted,
s/ Louella F. Benson, prose
6432 Montrose Street
Alexandria, Va. 22312
703 256 7595

STATE OF VIRGINIA
COUNTY OF FAIRFAX

BEFORE ME, the undersigned, a Notary Public duly commissioned and qualified in and for the State and Parish aforesaid, therein residing, personally came and appeared:

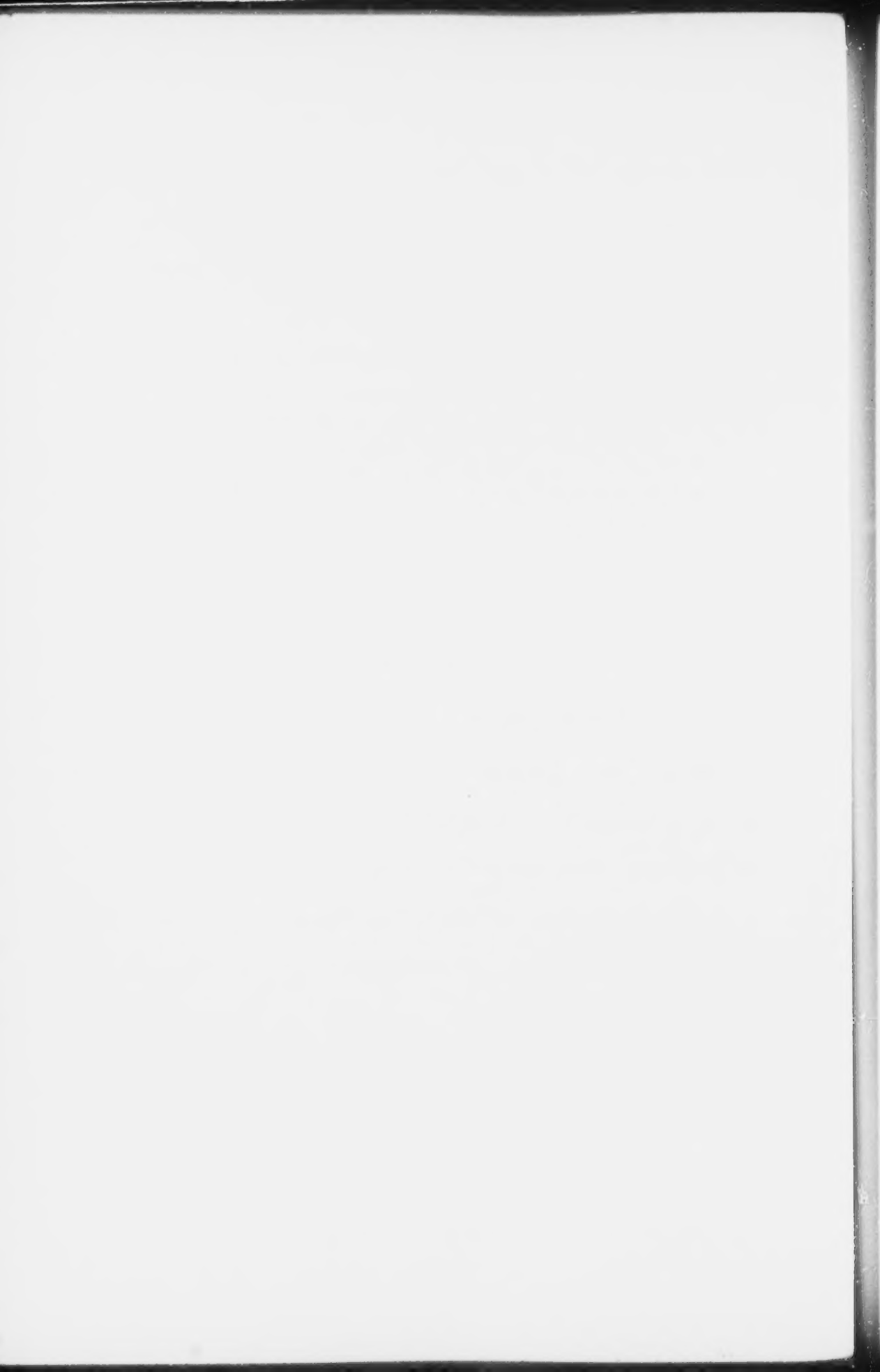
Louella Paul Benson, who upon being duly sworn, deposed: that she is the Plaintiff in the above titled and numbered petition, that the allegations of fact therein contained are true and correct, to the best of her knowledge and belief.

SWORN TO AND SUBSCRIBED BEFORE ME, ON
THIS 29th day of May, 1987.

Notary Public

s/Michelle M. VanHouha

My Commission Expires 3/22/1991



CERTIFICATE

I hereby certify that a copy of the above and foregoing Motion to Amend Original Complaint has on this the 29th day of May 1987, been forwarded to counsel of record, Thomas L. Lorenzi, Esq., Godwin, Painter, Roddy, Lorenzi & Watson, at 132 West Broad Street, P.O. Box 1743, Lake Charles, Louisiana 70602, via first class mail along with plaintiff's supplemental response to Magistrate's Report and Recommendations.

s/ Louella F. Benson, prose
6432 Montrose Street
Alexandria, Va. 22312
703 256 7595

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

LOUELLA F.BENSON

VS.

CIVIL ACTION
#85-1239 "LC"

STATE OF LOUISIANA ET AL Judge Veron

O R D E R

UPON CONSIDERATION of Plaintiff's Motion to Amend Original Complaint it appears that the Plaintiff has shown good cause and her MOTION TO AMEND ORIGINAL COMPLAINT IS FILED.

ORDERED on this the 4th day of June 1987, Lake Charles, Louisiana.

s/ James Trimble
U. S. Magistrate

Copy sent:

Date 6-4-87

By ln

To: Lorenzi

Benson



UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

LOUELLA F. BENSON CIVIL ACTION NO.85-1239
 Lake Charles

VS. Judge Earl E. Veron

STATE OF LOUISIANA, ET AL

MOTION IN LIMINE

NOW COMES Plaintiff Louella F.Benson, pro se, and states as follows in support of Motion:

1. This Motion is to ask the Court to prohibit any testimony from the Asst.D.A. about his subjective statements which he placed on his file folder, his statement that plaintiff is very apprehensive, paranoid and that she thinks the police are part of a conspiracy to get her. One, Ron Ware the Asst.D.A., has never spoken with plaintiff other than for a couple of moments on 9/19/84, when plaintiff and her husband reported for trial in Sulphur, Mr.Ware informed plaintiff that all the charges were dropped, that she had a clean record and that there would not be any trial. Plaintiff simply thanked him. Two plaintiff had a lawyer at the time who was at the Courthouse by the way on 9/19/84, and who informed plaintiff and her husband that the

charges had been dismissed and that the Judge had told the defendants they did not have a case.

Mr. Ware admits that he did not tell plaintiff's lawyer about his above unconscionable remark which he put on plaintiff's folder on 9/24/84, five days after plaintiff and her husband had reported for trial. Mr. Ware admits that he is not a psychiatrist and not an expert in this area, and he had to admit that he did not talk to plaintiff other than on 9/19/84, at which time plaintiff simply listened in the Court room full of other people, and she did not and could not have discussed the case during the few moments when he told her charges were dismissed. Plaintiff had presented herself for trial; not for a secret false profile to discredit her by the Asst.D.A. (counsel for the troopers) who does not know her, and who admitted as shown in attach.1, that the police use such files when plaintiff invoked the Freedom of Information and Privacy Act on Oct.18,1984,in efforts to

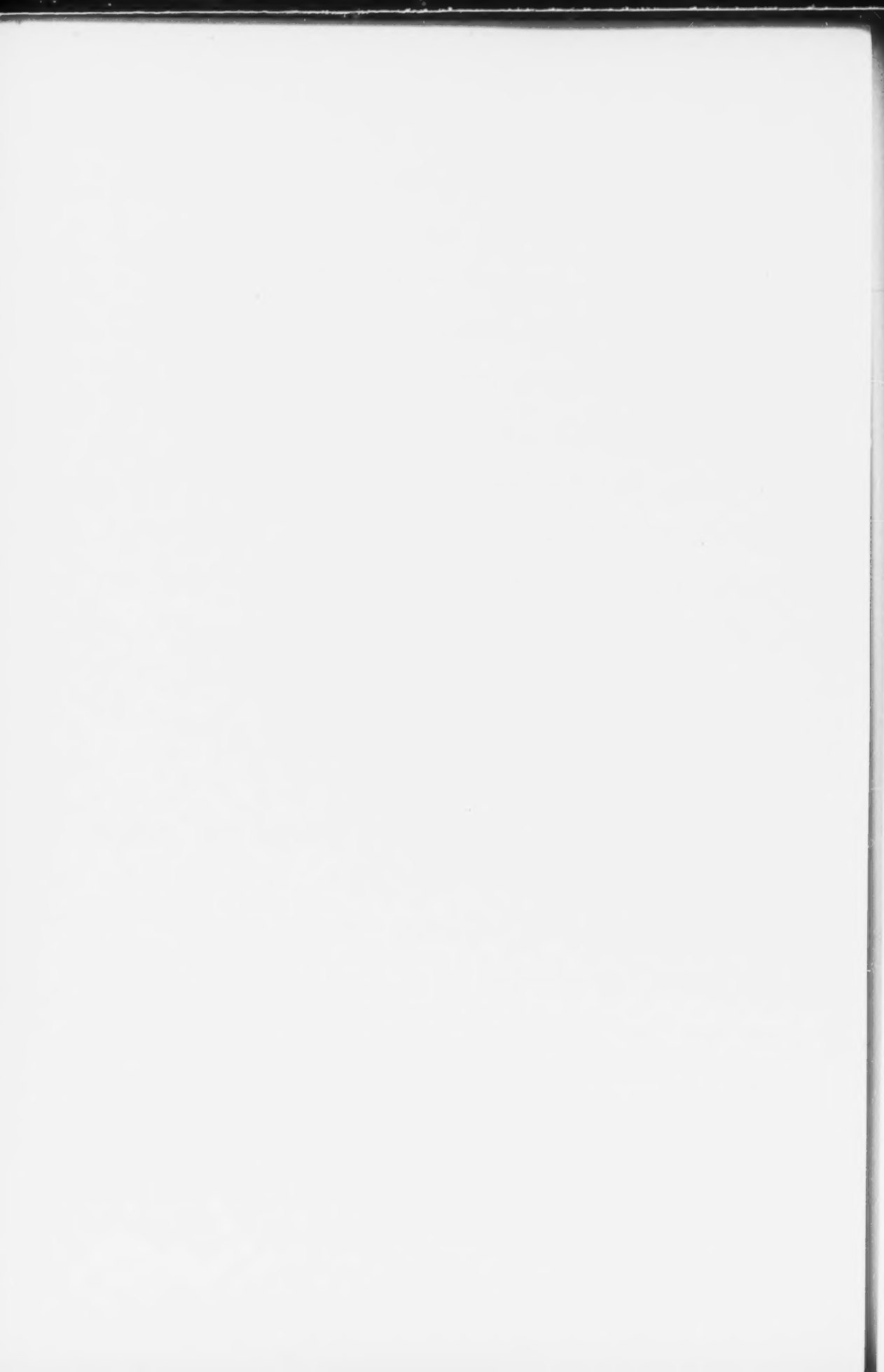


obtain a copy of whatever was in their files. Note that Mr. Ware did admit in writing that "there are no charges pending against plaintiff in Calcasieu Parish. Also he advised that I am not at liberty to forward to you police reports, files, etc. These items are only for law enforcement use only." Secret profiles!

The constitution assures a speedy trial; not secret false labels by an unqualified Asst.D.A. after all the charges were dismissed outright, and which he admits the police use!! Note that he also concealed the secret tape from plaintiff and the report by officer Odum which shows revealing discrepancies, including the 29 mph on the citation given to her on 5/6/84 and 40-45 mph in a 50 mph maximum zone in the report of the same date and by the same Officer (Odum), and all of which the Asst.D.A. would not make available to her (along with the reports of plaintiff's excellent driving record) inspite of the Freedom of Information and Privacy Act Request.

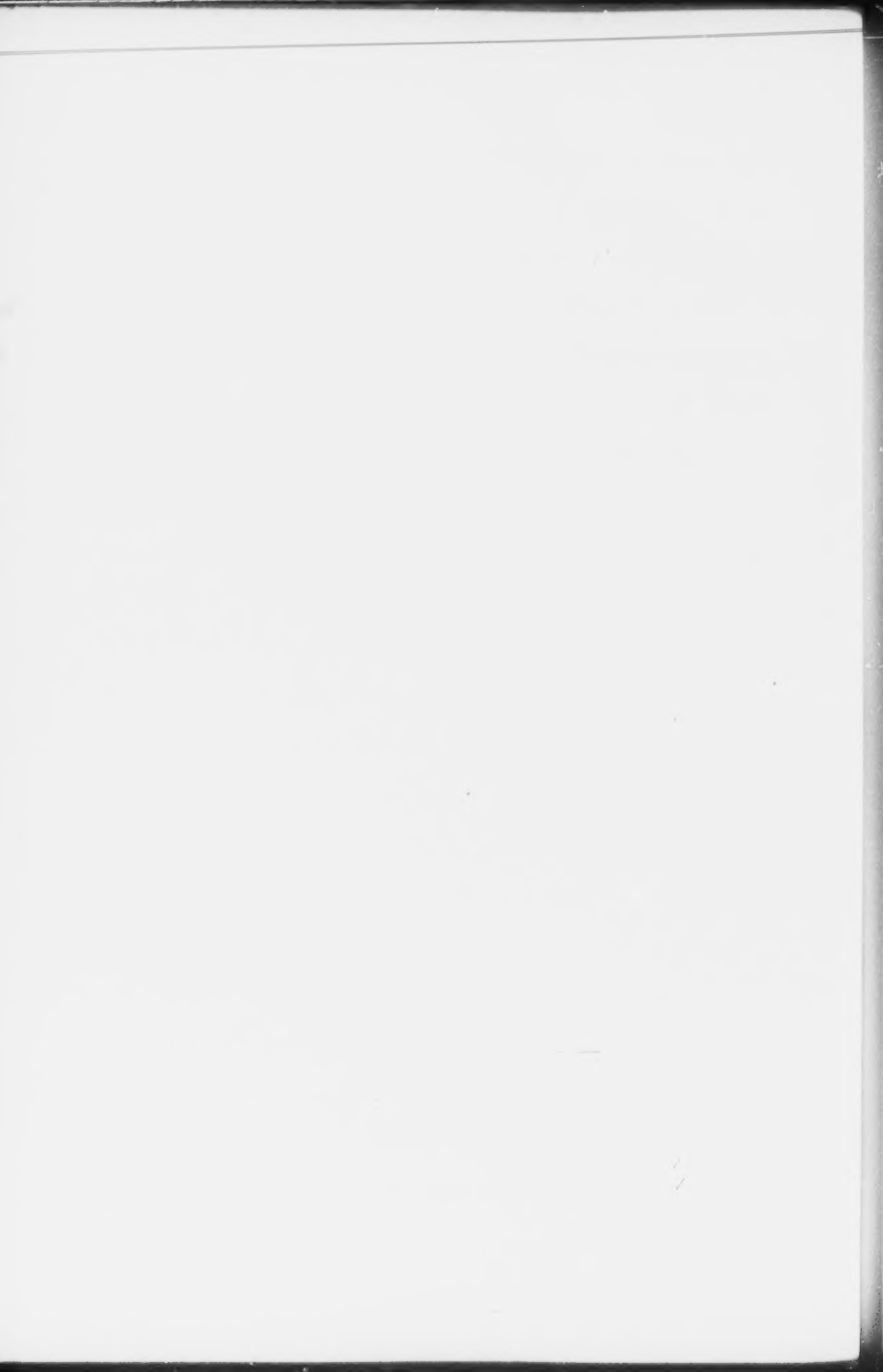
Note too at attach.2, Mr.Ware was not listed as a witness to testify at the trial on 9/19/84, but in 1988 he suddenly appears with these unconscionable, unconstitutional, secret remarks which he is not qualified to make to discredit the plaintiff before the Jury after all the charges were dismissed outright on 9/19/84 and he concealed this information from the plaintiff and her attorney! and after all the charges were dismissed.

2. Plaintiff would further ask the Court that no testimony be allowed regarding anything about plaintiff's mental status prior to the incident -- efforts to try to say that she was a mental case or crazy to try to justify a trooper-nurse following her. This would immediately discredit this prose plaintiff before the Jury; also plaintiff has hard facts from the proper professionals after she volunteered for complete evaluations and testings that she does not have the mental problems and does not need treatments (defendants' motion



for mental evaluation was denied) and finally, attach. 3 shows that plaintiff has no restrictions on her license and an excellent driving record which Defendant Odum, the trooper-nurse admitted. (She knows defendants can describe their observations during the incident if they tell truth.)

Plaintiff further asked the Court to prohibit the defendants from bringing in, introducing or entering documents, or referring to matters in her other legal cases before the Jury because she has been denied due process, procedural due process, discovery, etc. and it would compound the harm to this plaintiff, as defendants already tried to do when they sent in Order which had been obtained without discovery, trial or hearing by a defendant and his lawyer in other cases who ignored prior Court orders denying opposition with warnings to all parties for this type of harrassment, and who has since attached the plaintiff's property which was the same property he had



plans to obtain since 1981 before he sued plaintiff when she insisted on bidding on the improvements of her deceased parents, and he refuses to answer any questions including re his record.

Brief

Plaintiff respectfully prays that her motion will be granted for the reasons above stated and that it would be very unfair to discredit her before the Jury and compound the abuses after she has been denied due process in other legal matters, including filings by the opposition with misleading distortions and misrepresentation prior to rulings and without copying her before months after such things as summary judgments and which filings affected all cases.

As described above, Mr.Ware's (Asst.D.A.) secret subjective unconscionable false statements after the fact which he was not and is not qualified to make, and kept secret from plaintiff for four years, are designed to engineer a defense and discredit her by



disregarding more of her rights in order to protect the troopers and cover-up their unconscionable actions for which all the charges were dismissed outright. The troopers (State of La.) and the Asst.D.A. have simply gone too far in their disregard for constitutional rights of this plaintiff. The D.A.'s actions are most improper. Odum had a hunch that plaintiff had drugs, weapons, drinking, (out of state license), he and Hoffpauir laughed again when she responded she had expensive jewelry; Odum denied jewelry in report; Fox's untruths about government stuff--all proved to be wrong. Who is paranoid? Who made secret tape?

Respectfully,

s/Louella F. Benson, prose
6432 Montrose Street
Alexandria, Va. 22312
703 256 7595

I certify that a copy of the foregoing is being handed to opposing counsel at the Federal Court House in Lake Charles, La. (Thomas L. Lorenzi, Esq.) on this the 1st day of Feb. 1988, for this pre-trial motion out of hearing of jury.

s/ Louella F. Benson

6432 Montrose St.
Alexandria, Va. 22312

October 18, 1984

Mr. Ronald F. Ware
Assistant District Attorney
State of Louisiana
City of Sulphur
Parish of Calcasieu, La. 70664

Re: Arrest by State Troopers
while driving in Sulphur-L.C.
area on May 5, 1984

Dear Mr. Ware:

You will recall you told me on Sept. 19, 1984 that the State Police had second thoughts and that all the charges against me were dropped and that I had a clean record after I reported at the Court House-and you told me no trial would be held. My husband and I had made another special trip for the trial.

In view of a recent report in the newspaper concerning arrest records in general which get in computers etc., would you be kind enough to write me and verify the above in writing.

Also, I am enclosing a \$10.00 check and a notarized authorization release for disclosure to me of any information or reports which

are in your files or that of the Sulphur-Lake Charles State Troopers.

This request is made under any applicable disclosure or privacy laws and includes information in computers.

I would appreciate your assistance in processing this request at your earliest convenience.

Sincerely,

Encl.

s/Louella F. Benson

Dear Mrs. Benson (written in long-hand by
Mr. Ware Oct. 1984)

Please be advised that there are no charges pending against you in Calcasieu Parish. Also be advised that I am not at liberty to forward to you police reports, files, etc. These items are only for law enforcement use only. You must obtain a court order to get those records. Also please find enclosed your check for \$10.00.

s/ Ron Ware



DEFENDANT Lovella Benson

CHARGE Improper Lane Use
Resisting an Officer
Disturbing the Peace

TRIAL DATE 9/19/84

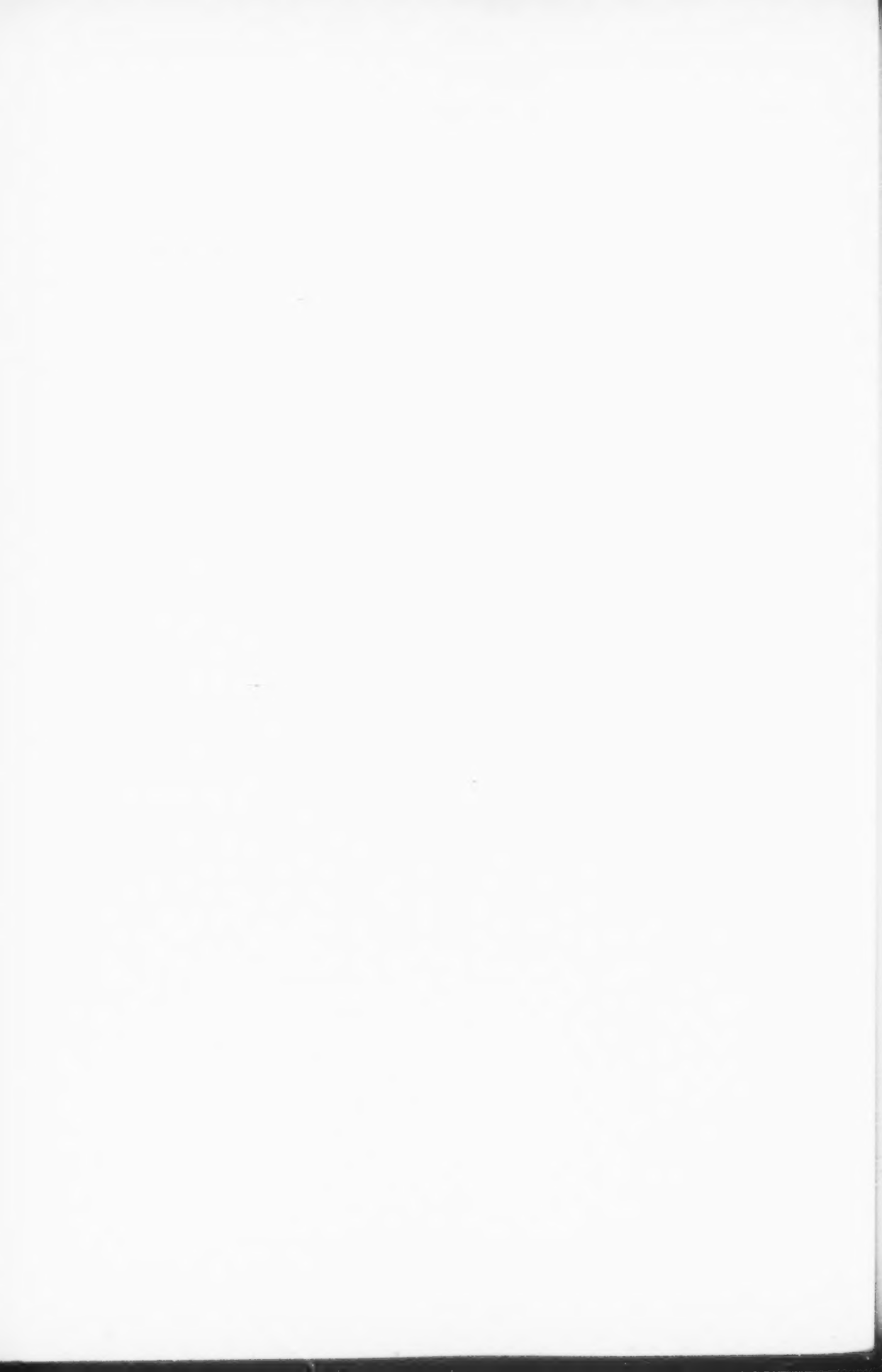
DOCKET NO. W4-84-373

W4-84-374

W4-84-375

WITNESSES FOR TRIAL

1. Sgt. James P. Odum c/o LSP Troop D City
2. Lt. Raymond Hoffpauir c/o LSP Troop D City
3. pe Ricky Fox c/o LSP Troop D City



YY 60478

7763 23:23 05 MAY 84

0378 23:23 05 MAY 84

LALSP0300

0000000000

LALSP0300

NO EECORD LIC/ 269 ELB LIS/TX

TXDPS0000 60509

3017 23:24 05 MAY 84

0379 23:24 05 MAY 84

LALSP0300

0000000000

R-DEC/84 LIC 269 ELB, OLD # -NONE-

84,FORD, 3DR, 1FABP2834EF 145552

NATIONAL CAR RENTAL SYSTEM INC, 497061,AMF
BOX 60224, HOUSTON

s/ 5 May

Lt. Raymond Hoffpauir

VA00000000 60741

3038 23:29 05 MAY 84

0383 23:29 05 MAY 84

LALSP 0300

00000000000

BENSON, LOVELLA, F

6432 MONTROSE ST.

ALEXANDRIA, VA. 22312

RAC/W. SEX/F. DOB/122534, HGT/506. WGT/140.

HAI/BR. EYE.BR.

SOC/433525514, OLN/BO55174215516807300

OLT/OPERATOR. EXP/12 84

DMV RESTR: NONE

STATUS: LICENSE CLASS/NONE

OLT/CHAUFFEUR. EXP/

DMV RESTR: NONE

STATUS: NOT LICENSED CLASS/NONE

CLASS A - THREE OR MORE AXLES - EXCESS OF
40,000 LBS.

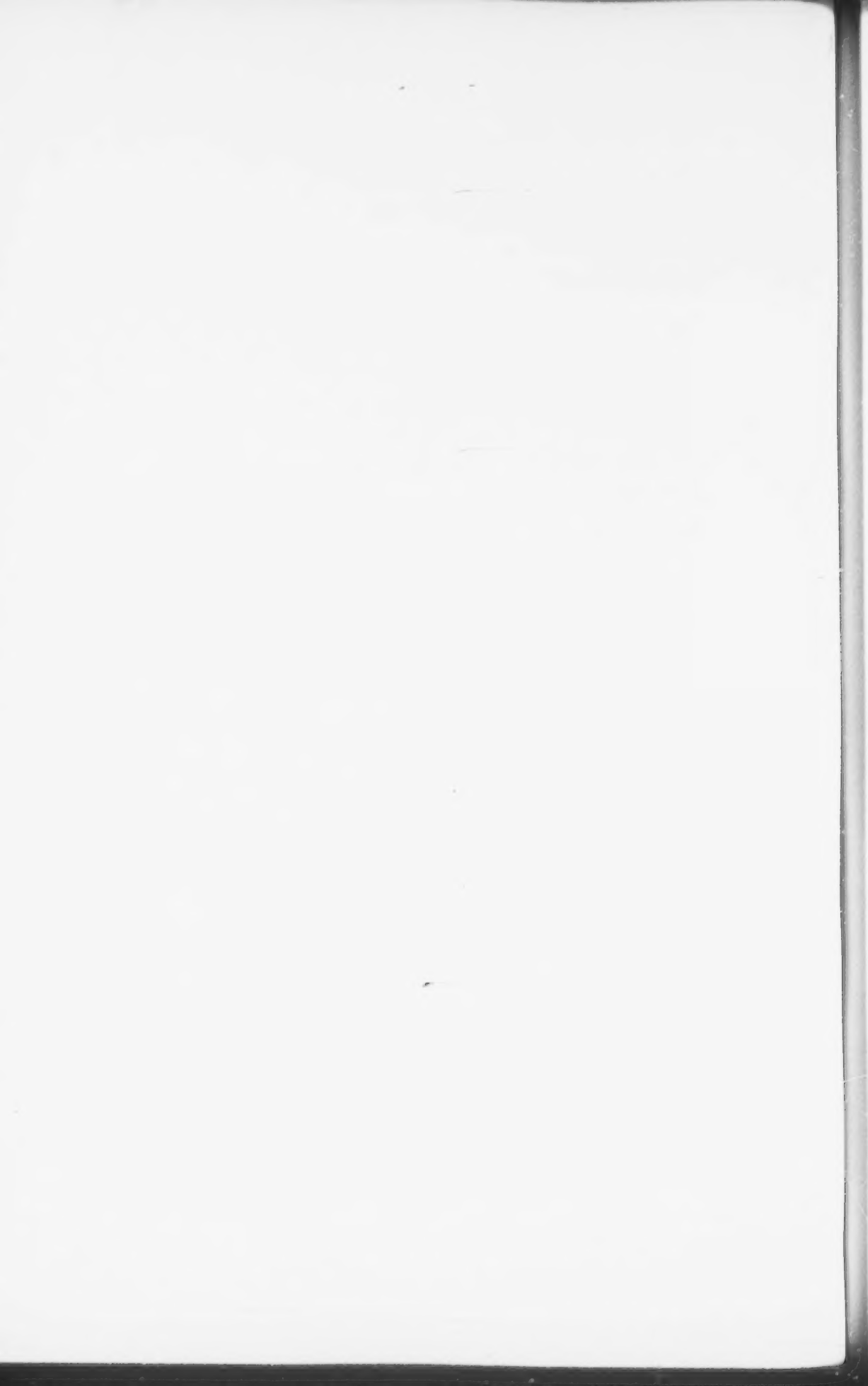
CLASS B - PASSENGER BUS WITH MORE THAN 32
SEATS

CLASS C - MOTORCYCLE - 3 WHEELS OR LESS

CLASS S - SCHOOL BUS

s/ 5 May

Lt. Raymond Hoffpauir



TO ALL MEMBERS OF THE FAMILY,

I, Ewell J. Faul, plan to call for a public auction of the property that we jointly own in St. Landry Parish no later than November 15, 1981, if a unanimous decision cannot be reached by all parties as of that date.

I plan to be at that auction and to purchase this property in my name and I will allow no one to back in for their share unless I so desire.

I also plan for this sale to include all mineral rights attributable to the property and whoever is successful in purchasing the property will be in total control of its disposition.

October 23, 1981

s/Ewell J. Faul

witnessed by: Nellie Champagne Faul

In long-hand by Leslie Faul

Dear Louella,

It seems that we have two choices now concerning the property. We proceed as agreed by 9 of us at the Oct 10 meeting or we have a public auction. */

*/ Untrue - 3 heirs had not agreed; plaintiff not present at meeting. Note by Benson



Your ideas were presented to the group. They were not accepted. The price for the house was thoroughly discussed before the division. All were in agreement. I don't think it would have made any difference if you had been present. They still would have done the same thing. (plaintiff bid more for house).

It is too late to change the rules now. That would require another meeting and I don't intend to do that again. Also, if we change things to satisfy you, others would ask for changes. There would be no end to it. (facts show he changed rules for other heirs).

If I don't hear from you on time to stop Ewell before Nov. 15th, I will withdraw from any more discussion with anyone and let Ewell handle it. I can't take any more of this.

All the others have signed to let me have the old car. Do you want to bind on it too or how do you want to dispose of it,

s/ Leslie

(plaintiff agreed to give him the car but insisted on bidding on improvements.) underscores by Benson



4-005 398S302002 10/29/81 ICS IPMBNGZ CSP
FCHC

1 7032567595 MGM TDBN ALEXANDRIA VA 10-29
0753A EST

JOSEPH L. BENSON, LOUELLA
6432 MONTROSE ST
ALEXANDRIA VA 22312

THIS MAILGRAM IS A CONFIRMATION COPY OF THE
FOLLOWING MESSAGE:

7032567595 TDBN ALEXANDRIA VA 43 10-29
0753A EST

FOR 3185282151

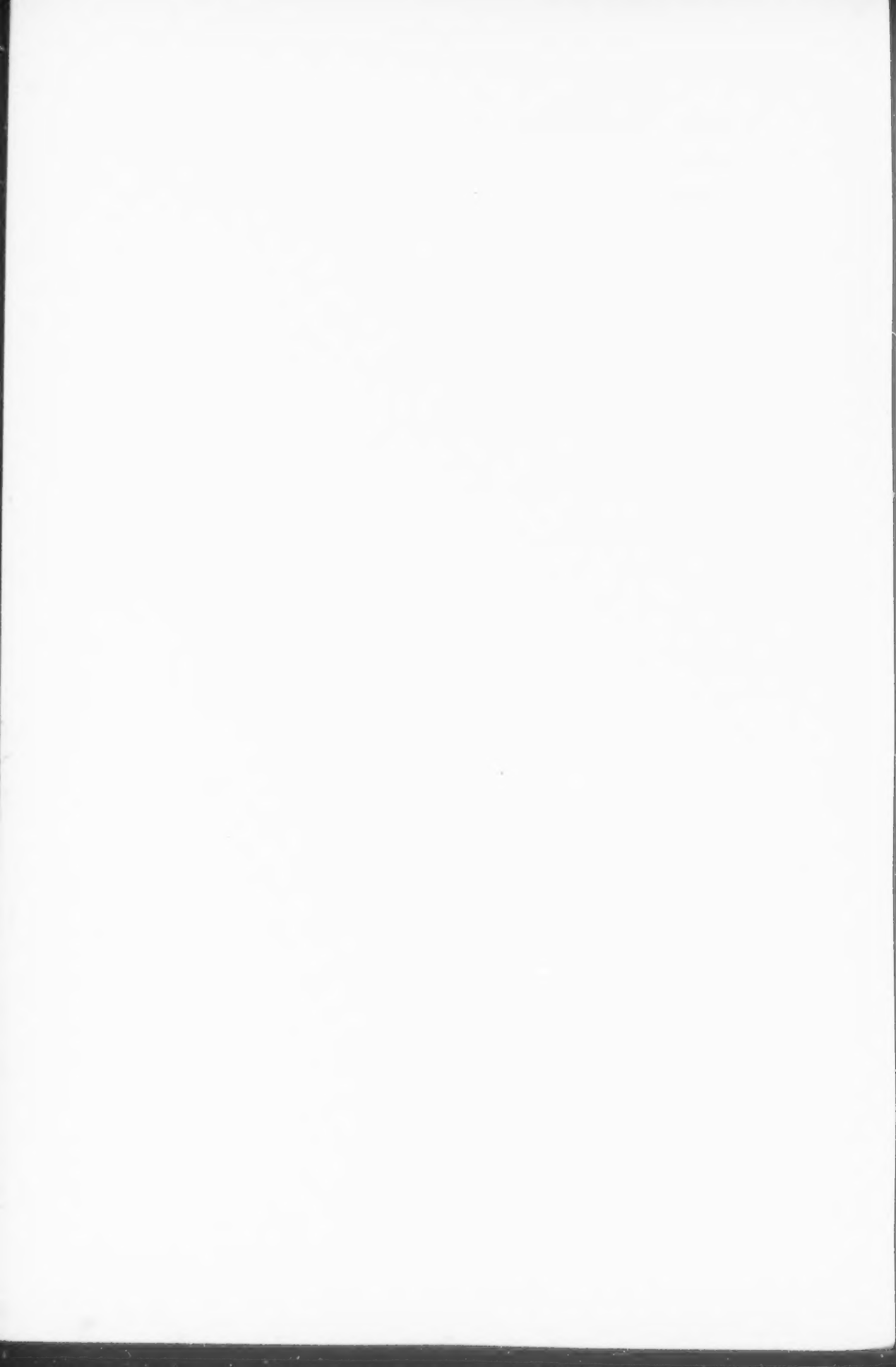
LESLIE FAUL COPY MESSAGE, RUSH PHONE
528 PATTON ST IMMEDIATELY
SULPHUR LA 70663

PLEASE FORWARD COPY OF LEASE. EURA AND
I HAVE COME TO AN AGREEMENT. I HOPE YOU AND
I CAN REACH AN UNDERSTANDING ON THE HOUSE,
THAT IS THE ONLY THING PREVENTING THE STRIP-
PING, IF NOT, AM SUBMITTING A FORMAL BID OF
\$17,000. LOVE

LOUELLA

0757 EST

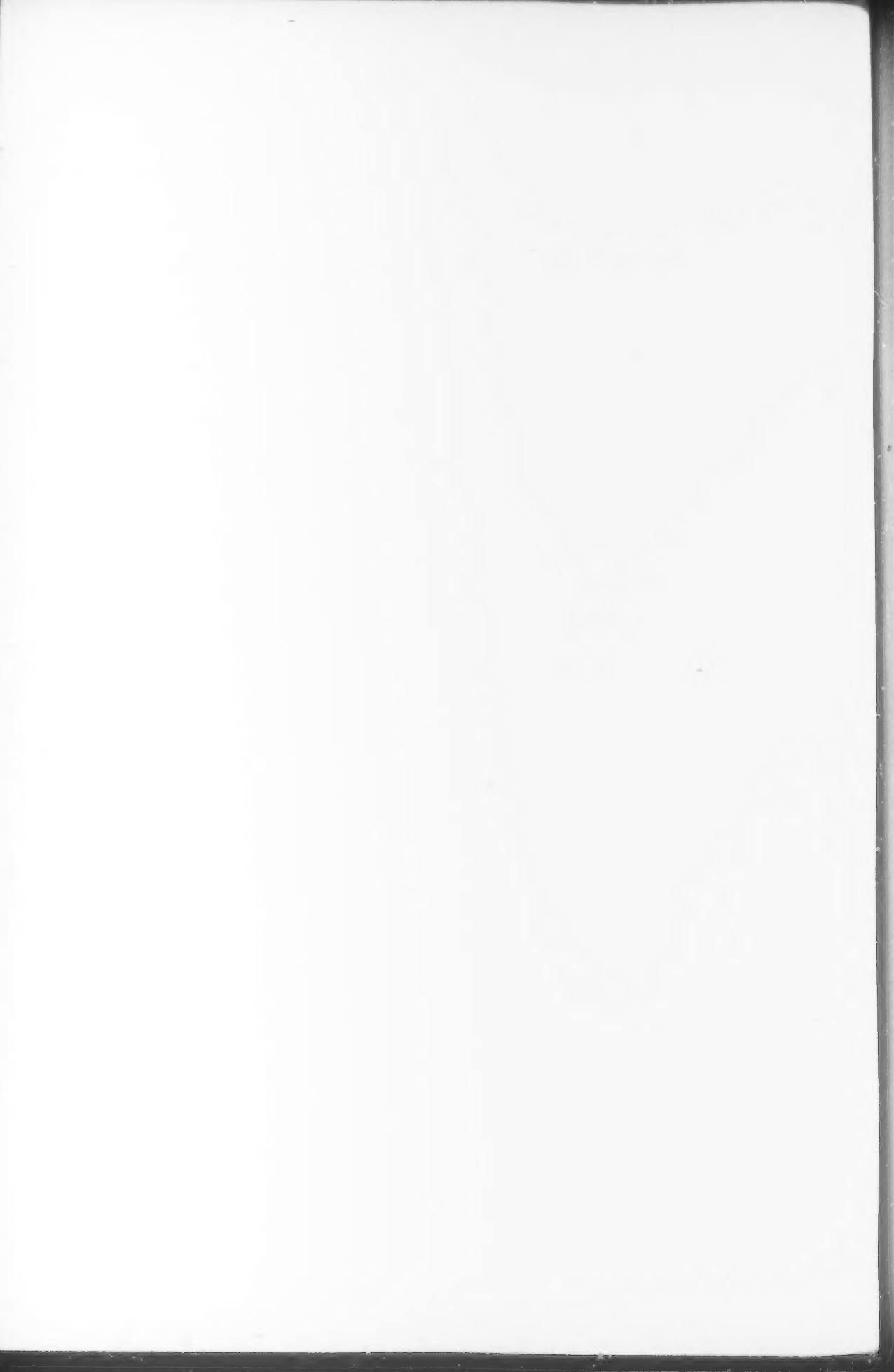
MGMCOMP MGM



IDENTIFIABLE NOTE FROM LESLIE FAUL, EXECUTOR
ON 11/6/81 to LOUELLA F. BENSON

IF THE SURVEYOR'S FIND THAT THE HOUSE IS
ALL ON MY LAND, I WILL HOLD EVERYONE TO THE
AGREEMENT 9 OF US MADE - NO BIDS. I HAVE AL-^{*/}
READY WON IT AND WILL FIGHT YOU IN THE COURTS
OR OTHERWISE TO KEEP YOU FROM GETTING IT.

*/ Untrue - 3 heirs had not signed;
to "fight me in courts and 'otherwise'"
tells all.



UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

LOUELLA F. BENSON CIVIL ACTION NO 85-1239
LC
VS. JUDGE EARL E. VERON

STATE OF LOUISIANA, ETC., ET AL

U S DISTRICT COURT
WESTERN DISTRICT OF LA.

F I L E D

May 2, 1988

Robert M. Shemwell, Clerk

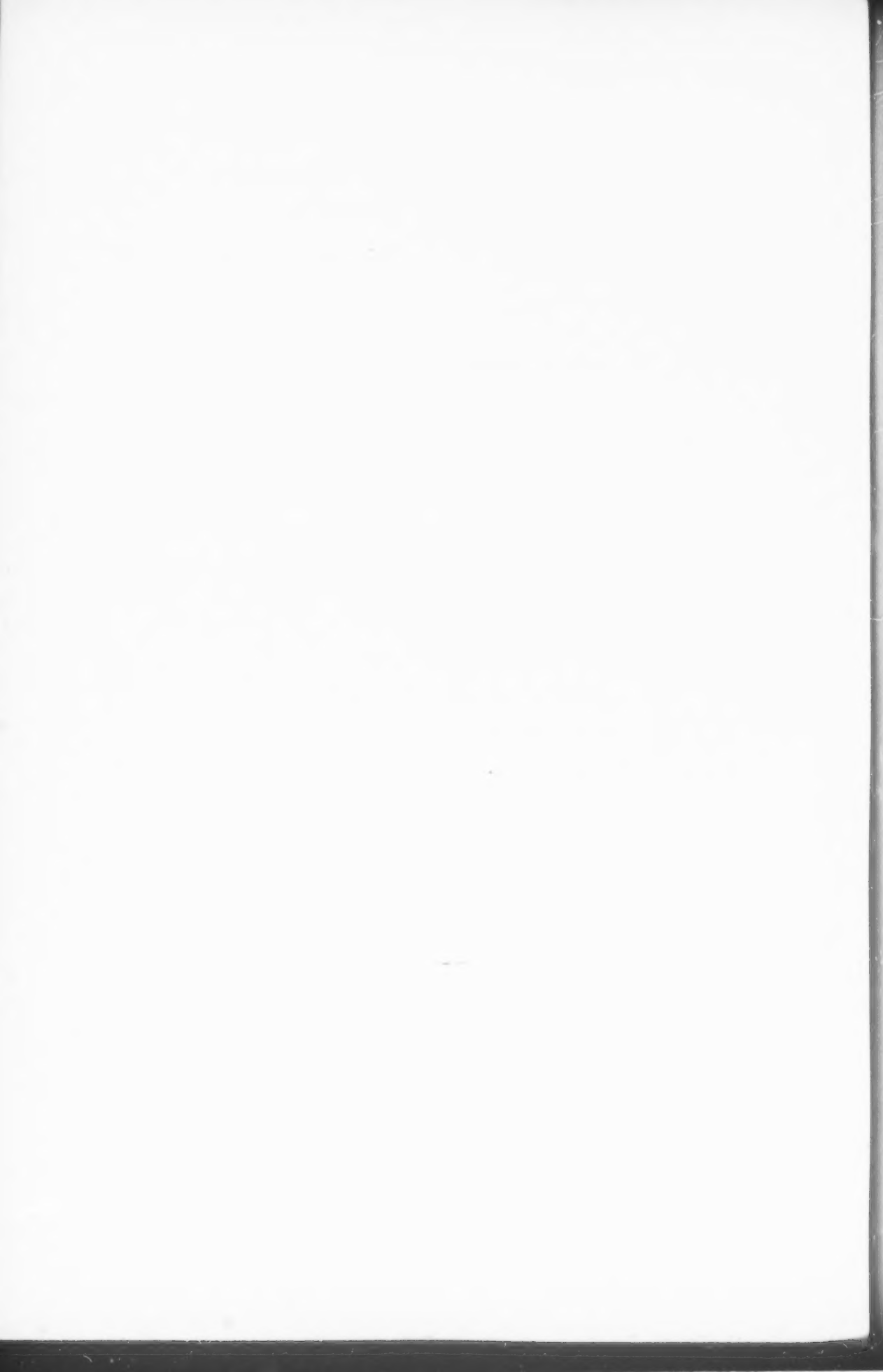
MOTION FOR PERMISSION TO MAKE CORRECTIONS IN
TRANSCRIPT AND ADDITIONAL TIME TO DO SAME,
AND THAT THE TAPES BE MADE AVAILABLE TO
PLAINTIFF

NOW COMES, Louella F. Benson, plaintiff pro se, and states as follows in support of this Motion:

Due to other legal matters, the preparation of briefs in other cases, further violations of her rights, and having been sick, the plaintiff has just had an opportunity to glance at transcript at random. For example at pg. 35 of Vol. 1 L-3-6, the transcript reads:

Ms. Benson:

"Your Honor, I am not sure I really



made my point. The reason for the motion, as far as the other cases, is that there were problems with the state. They have attacked my problem." underscored added.

Clearly there are mistakes in the above as to what plaintiff said as to the contents of her Motion in Limine in which she was trying to prohibit the defendants in subject case from going into other legal cases in view of denials of due process, discovery and compounding harm, that she would not have the time to explain to the jury etc. and she goes on to say:

"...and who has since attached the plaintiff's property which was the same property he had plans to obtain since 1981 before he sued plaintiff when she insisted on bidding on the improvements of her deceased parents...."

As shown by her Motion in Limine attached, Exh. 1, plaintiff was referring to the estate cases and that the opposition had now attached her property. The corrections are very

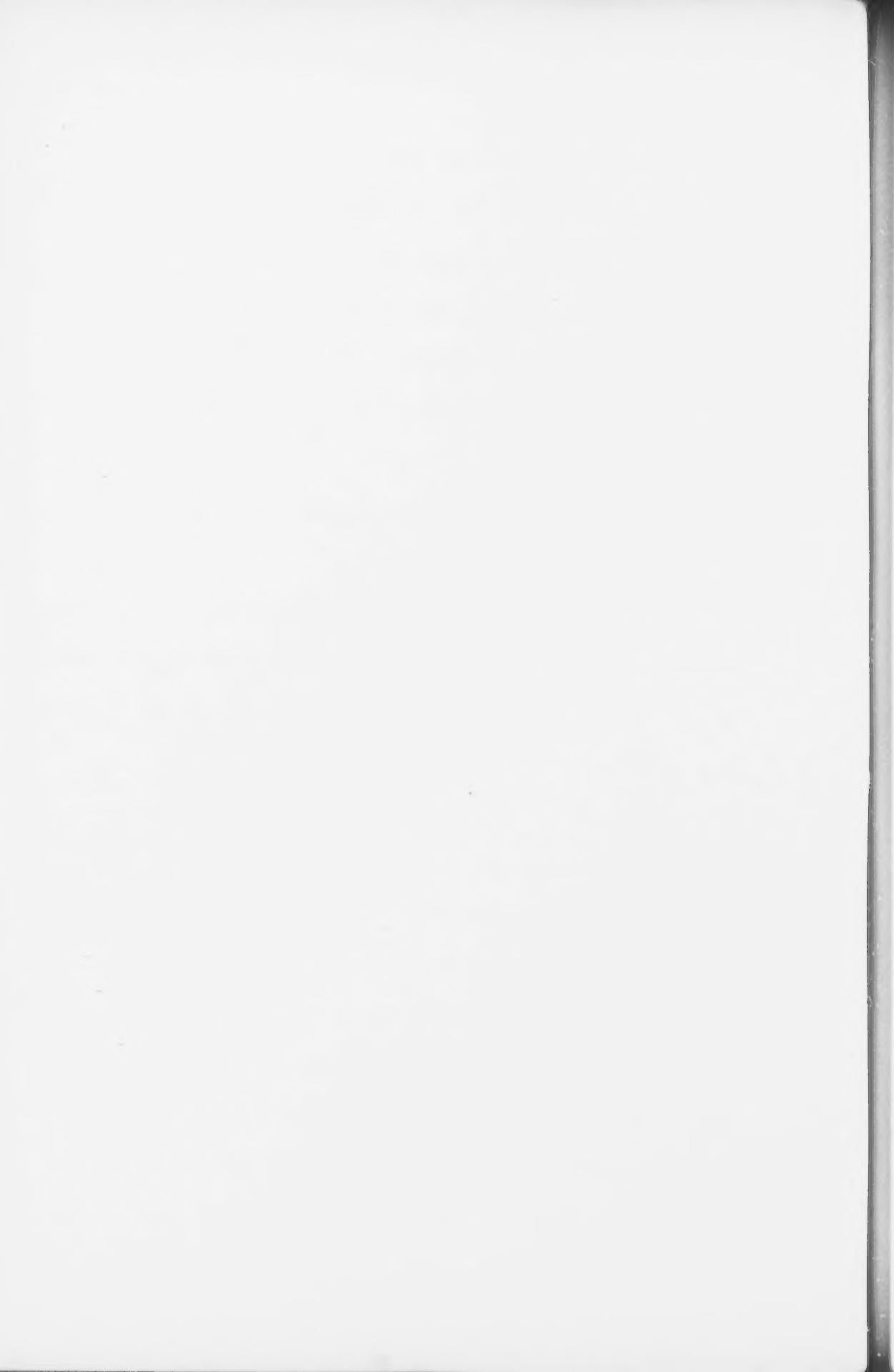
important in view of certain matters in this case. As written in the transcript the above presents an erroneous and totally different statement which is detrimental to plaintiff helpful to the defense. There is proof of attachment of plaintiff's Louisiana property and prior plans.

Also, it would be necessary to check at pg. 89, Vol.1 L-14-23:

The interruption at 1-19, "Okay" distorts the meaning of the complete sentence by plaintiff:

"It's signed by, both and signed by Lt. Hoffpauier. That was obtained on May 5, 1984. That's a computer run of my driving record, and my, and my, saying there are are no restrictions on my license and my driving record but I had no record of arrest and that type thing."

The transcript shows but but I wonder if that is not and I had no record of arrest and that type thing. The truth of the matter can be verified by the two exhibits attached under No.3 and in the record (computer runs obtained by troopers on May 5, 1984) to Exh.1 enclosed Motion in Limine which show both no restrictions



and no record. Also although plaintiff readily admits that she makes mistakes it shows that the source of this information was the computer. Also, at line 22-23, there is an obvious mistake regardless of who made it:

"Mr. Loreni, that was obtained by me in view of a Court order on October the 9th 1984, given to me by you." The record clearly shows that it was Oct. 9, 1987, and if plaintiff said 1984, she stands corrected.

Also, at Vol. 2, pg. 350, L-8-10:

"I had tried to obtain what information was in the files, I was not able to, for 1987, October of '87."

There is an obvious mistake there or incomplete statement in that plaintiff was not able to obtain the information until Oct. 1987. At pg. 273, Vol. 2, L-1"

"He destroyed the private, a state road that I had been --"

Deputy Bearb destroyed the private, estate road that I had been (interrupted)

Vol. 5, at pg. 701, L-10:

"There are specific rules by E-P-A."



Clearly that should be by APA. The American Psychiatric Association in view of the prior sentence, "you just don't put a label on someone unless you know the person, you are a psychiatrist or psychologist".

Plaintiff respectfully prays that her motion will be granted.

Most respectfully submitted,

s/Louella F. Benson, pro se
6432 Montrose Street
Alexandria, Va. 22312
703 256 7595

Brief in Support of Motion:

Plaintiff respectfully prays that her motion will be granted for the aforementioned reasons, the facts that she has not yet had an opportunity to read most of the transcript and there may be other serious mistakes of substance, her unavoidable schedule etc. as described, and to assure justice. Plaintiff would pray for an additional month from the time the tapes are made available to her to make corrections, list them and according to the tapes and FRCP. It has been plaintiff's experience in

transcribing tapes that is is easy to make a mistake, e.g. a state, as opposed to estate but the corrections are crucial including such things as in first paragraph pg. 1 of this motion.

Respectfully submitted,

s/ Louella F. Benson pro se
6432 Montrose Street
Alexandria, Va. 22321
703 256 7595

I certify that a copy of the foregoing is being sent via first class mail to Thomas L. Lorenzi, Esq., Godwin, Roddy, Lorenzi, Watson & Sanches, Broad at Lakeshore Drive, P.O. Box 1743, Lake Charles, La., 70602, on this the 1st day of May 1988 via first class mail.

s/ Louella F. Benson



6432 Montrose Street
Alexandria, Va. 22312

February 15, 1988

To Whom It May Concern:

This is to state that Louella F. Benson is my wife of almost twelve years. After a heart injury, prominent septal depolarization of the heart, Mrs. Benson volunteered for a complete psychiatric evaluation. After three sessions and psychological testing, the psychiatrist told me that Mrs. Benson does not have the mental problems and does not need treatments.

Louella is my administrative assistant, secretary and bookkeeper and does her work very well. She is a loving and considerate person and generous in her gifts to churches and charities. She takes care of me very well.

s/ Joseph L. Benson

State of Virginia

County of Fairfax

Feb. 15, 1988

s/ Claudia K. Boksode

Notary Public

My Commission expires

July 14, 1989



UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

LOUELLA F. BENSON

VS.

CIVIL ACTION NO. 84-2540,
Section "O"

FOREST BEARB (Deputy)

RESPONSE TO PLAINTIFF'S MOTION TO COMPEL
FOREST BEARB TO PRODUCE SWORN AFFIDAVIT

Now appears Forest Bearb, through under-
signed counsel, who responds that:

1.

No formal request for production and in-
spection of documents was served upon defend-
ant.

2.

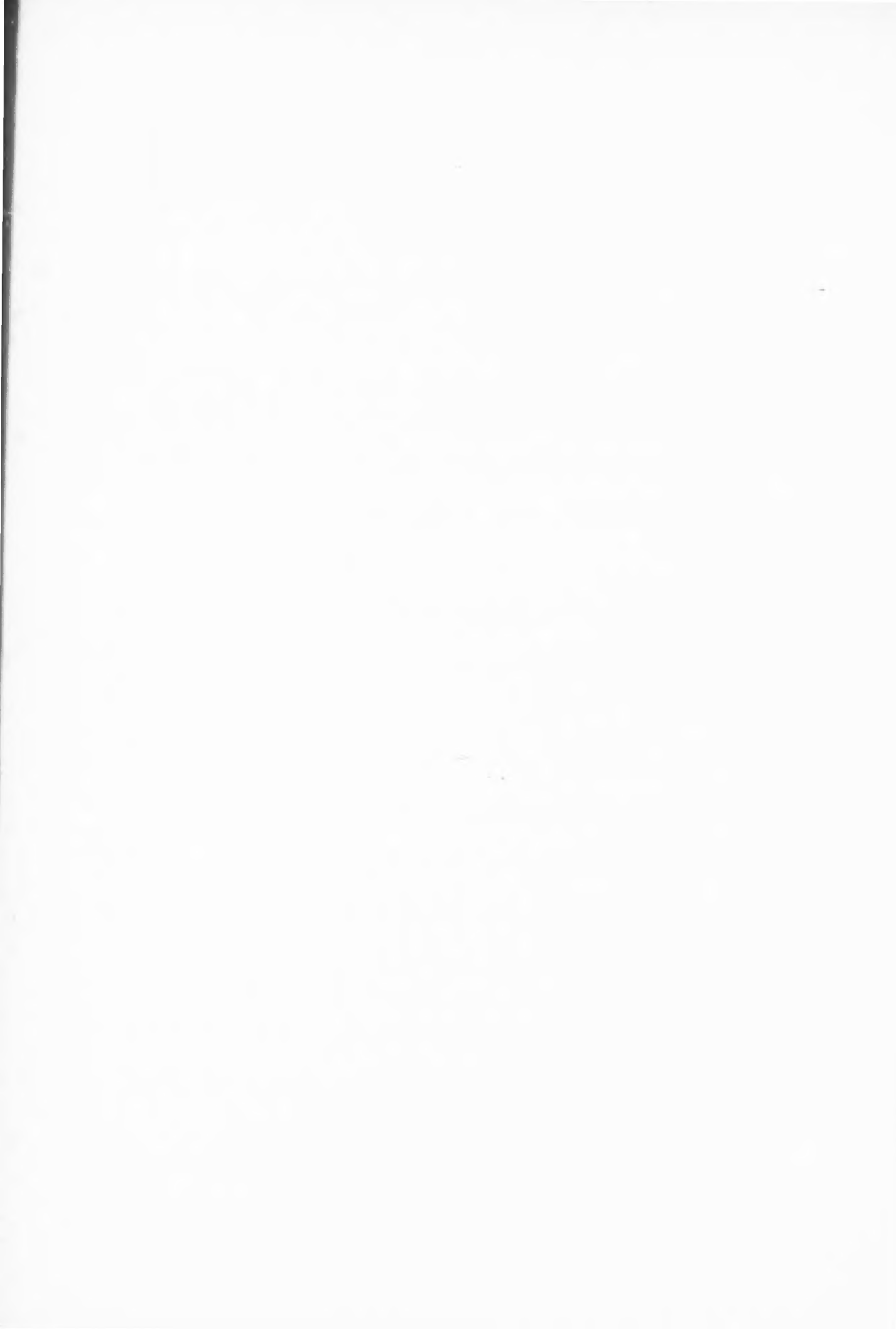
Although a rough affidavit was prepared
by defendant, Forest Bearb, there was never
typed and was discarded as useless by counsel
for defendant since it did not contain speci-
fic allegations of facts.

3.

Because of the foregoing, there exists no
sworn affidavit nor even the rough copy of
same.

4.

Defendant would request as a sanction of
this court, an award of attorney's fees and



costs for his being compelled to respond to this motion to compel since no request for production .

I certify that the above and foregoing motion has been served upon Louella F.Benson, 6432 Montrose Street, Alexandria, Virginia 22312, by depositing same in the United States Mail, postage prepaid and properly addressed.

Lafayette, Louisiana, this 24th day of April, 1985.

s/ Charles Brandt

A-70

6432 Montrose Street
Alexandria, Va. 22312

March 11, 1988

Mr. Joe Williams, Court Reporter
P. O. Box 465
Lake Charles, La. 70602

Dear Mr. Williams:

Re: Benson vs. State of La.
CV85-1239

This letter will confirm our conversation of this date for the transcript in the above mentioned case.

Enclosed are checks 470 for \$2,000.00 and #118 for \$1,000.00 as requested which you said you felt was a close estimate for the transcript but that you could not estimate the exact amount which I can appreciate.

Also enclosed for your convenience is an envelope addressed to the Clerk in Shreveport along with the form which I understand you are suppose to fill out. Please notify Clerk that arrangements have been made for the transcript along with the form upon receipt of this letter in view of the ten day requirement and the geographical problem I have. I also attach an



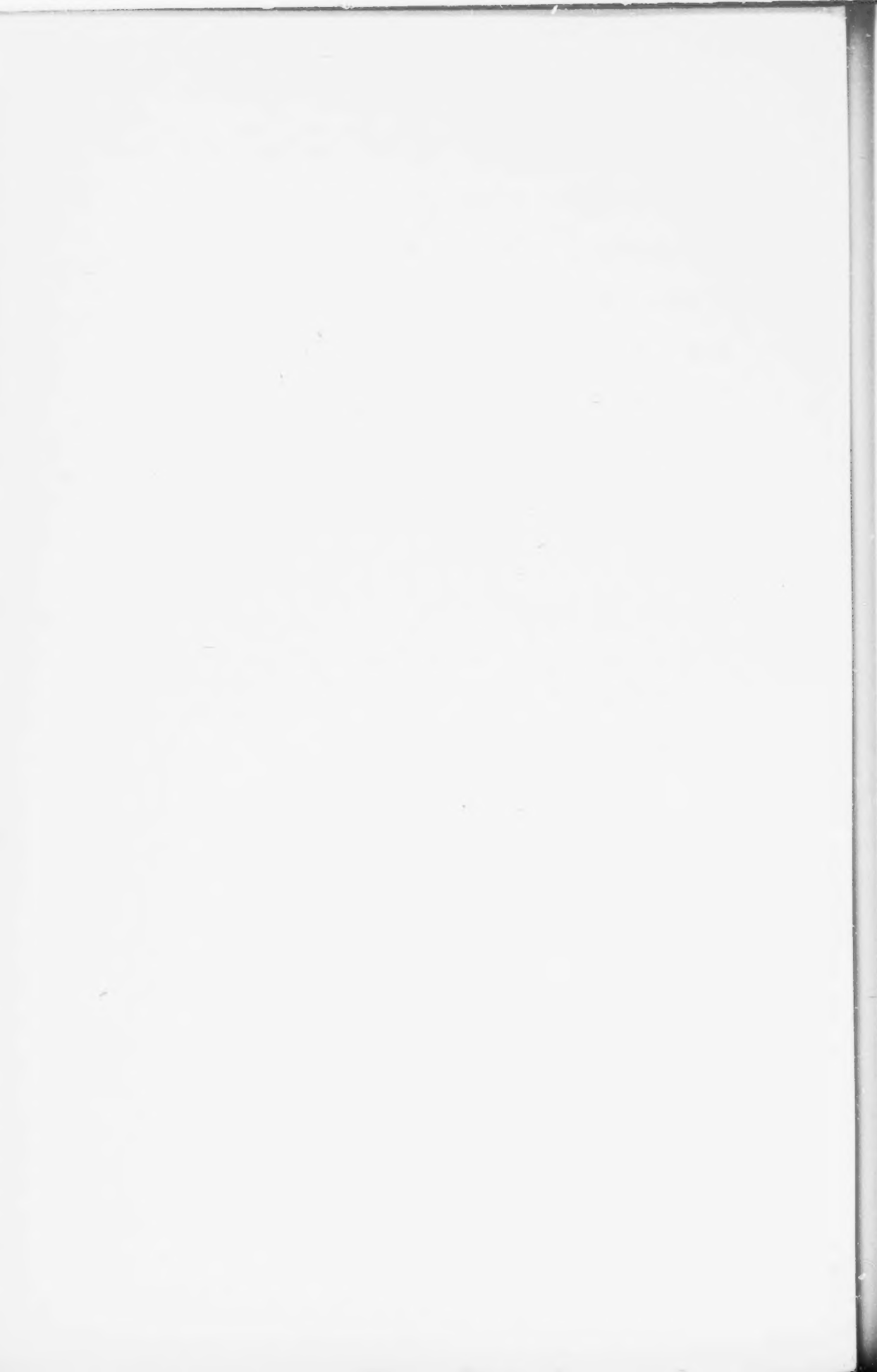
envelope addressed to Mr. Lorenzi for your convenience.

After you have completed the transcript, please send it to me via overnight service via post office so that I can list and file corrections, if there are any corrections of material significance, before I file my brief. Thank you kindly.

Sincerely yours,
s/Louella F. Benson, pro se

Encls. as stated

cc: Thomas L. Lorenzi, Esq. w/o attach
Hon. Robert H. Shemwell, Clerk of Court
w/o attach.



UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT
OFFICE OF THE CLERK

April 15, 1988

Gilbert F. Gancheau
Clerk

Tel. 504 589-6514
600 Camp Street
New Orleans, La.
70130

Ms. Louella F. Benson
7432 Montrose Street
Alexandria, Va. 22312

No. 88-4182 - Benson vs. Hoffpauier

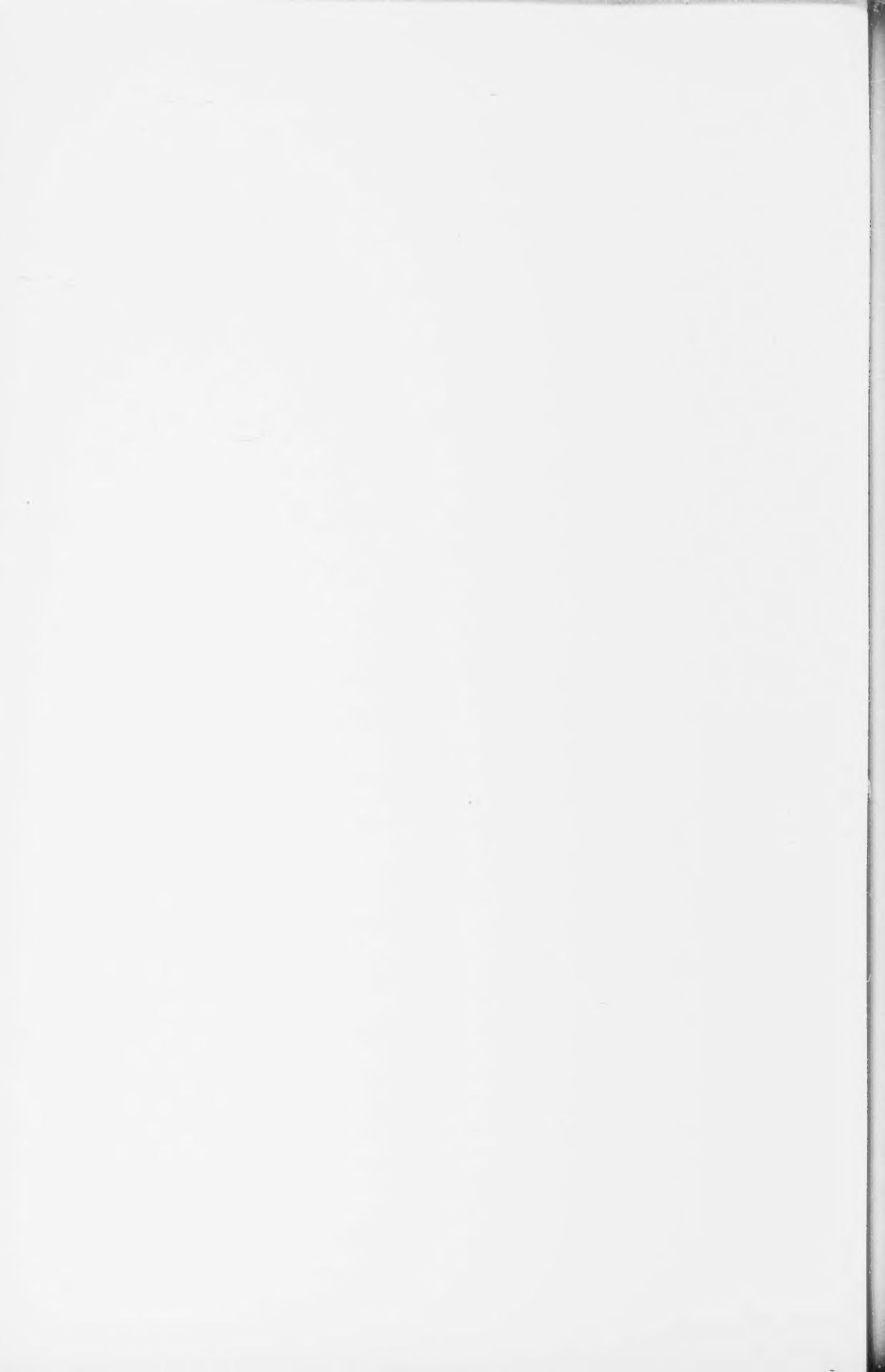
Pursuant to Rule 12 of the Federal Rules of Appellant Procedure, you are hereby notified that the record on appeal has this day been filed. THE BRIEF FOR APPELLANT IS NOW DUE WITHIN FORTY (40) DAYS FROM THIS DATE in accordance with Rule 31 FRAP. See FRAP and Local Rules 28 and 31 as to the content of and time for filing briefs. Local Rule 42.3.2 allows the clerk to dismiss appeals without notice if the brief is not timely filed. ^{*}/

An appendix to brief prescribed by FRAP 30 is not required. See Local Rule 30.1 for the excerpts from the record which are to be filed in lieu of an appendix. Sincerely yours,

GILBERT F. GANUCHEAU,
cc: Thomas L. Lorenzi, Esq. Clerk

By: s/ Della M. Jones, D.C.

^{*}/ First leave granted until 6/15/88
Second leave granted until 7/11/88



UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT
OFFICE OF THE CLERK
June 8, 1988

Gilbert F. Ganucheau
Clerk

Tel. 504-589-6514
600 Camp Street
New Orleans, La.
70130

MEMORANDUM TO COUNSEL OR PARTIES LISTED
BELOW:

No. 88-4182 LOUELLA F. BENSON VS LT. RAYMOND
HOFFPAUIER ET AL, (CV 85-1239)

The following action has been taken in the
above case:

X An EXTENSION OF TIME has been granted
to and including July 11, 1988

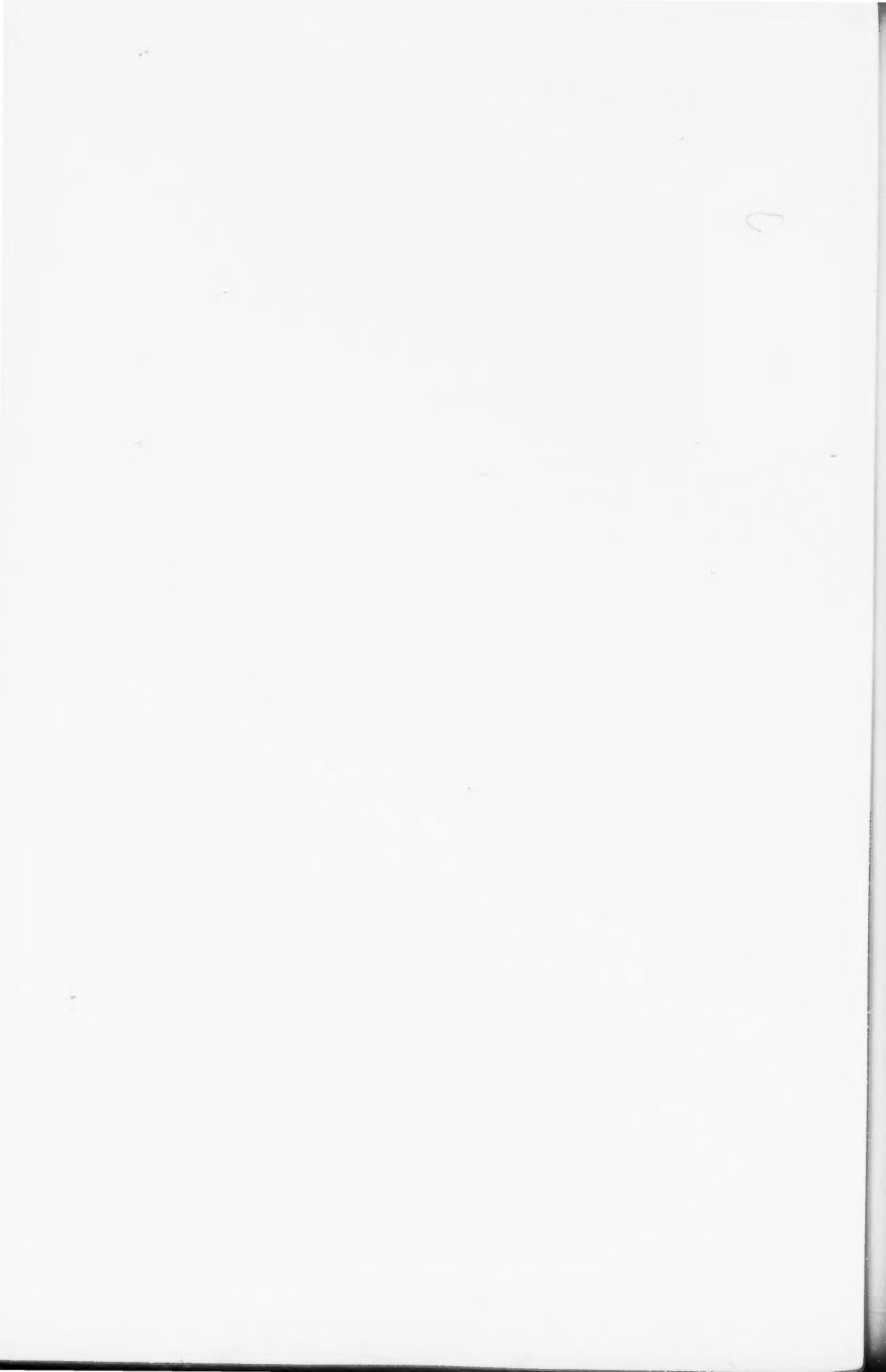
X for filing appellant's/
petitioner's brief.

GILBERT F. GANUCHEAU, Clerk

s/ By: P. Keller
Deputy Clerk

Ms. Louella F. Benson

Mr. Thomas L. Lorenzi



May 8, 1988

Re: Benson
v. 85-1239
State of La.

Dear Mrs. Benson:

Please be advised that pretrial conferences and motions had before Judge Veron are not ordinarily taken down by me. It must be specifically requested by one of the parties. Therefore, I am unable to comply with your request for a transcript of same. You will also find enclosed your deposit check.

s/Joe D. Williams
Official Reporter
P.O. Box 465
Lake Charles, La. 70602

Check returned.



UNITED STATES DISTRICT COURT
OFFICE OF THE CLERK
WESTERN DISTRICT OF LOUISIANA

May 13, 1988

Louella F. Benson
6432 Montrose Street
Alexandria, Virginia 22312

Dear Mrs. Benson: Re: Benson vs. State of
La. CV85-1239

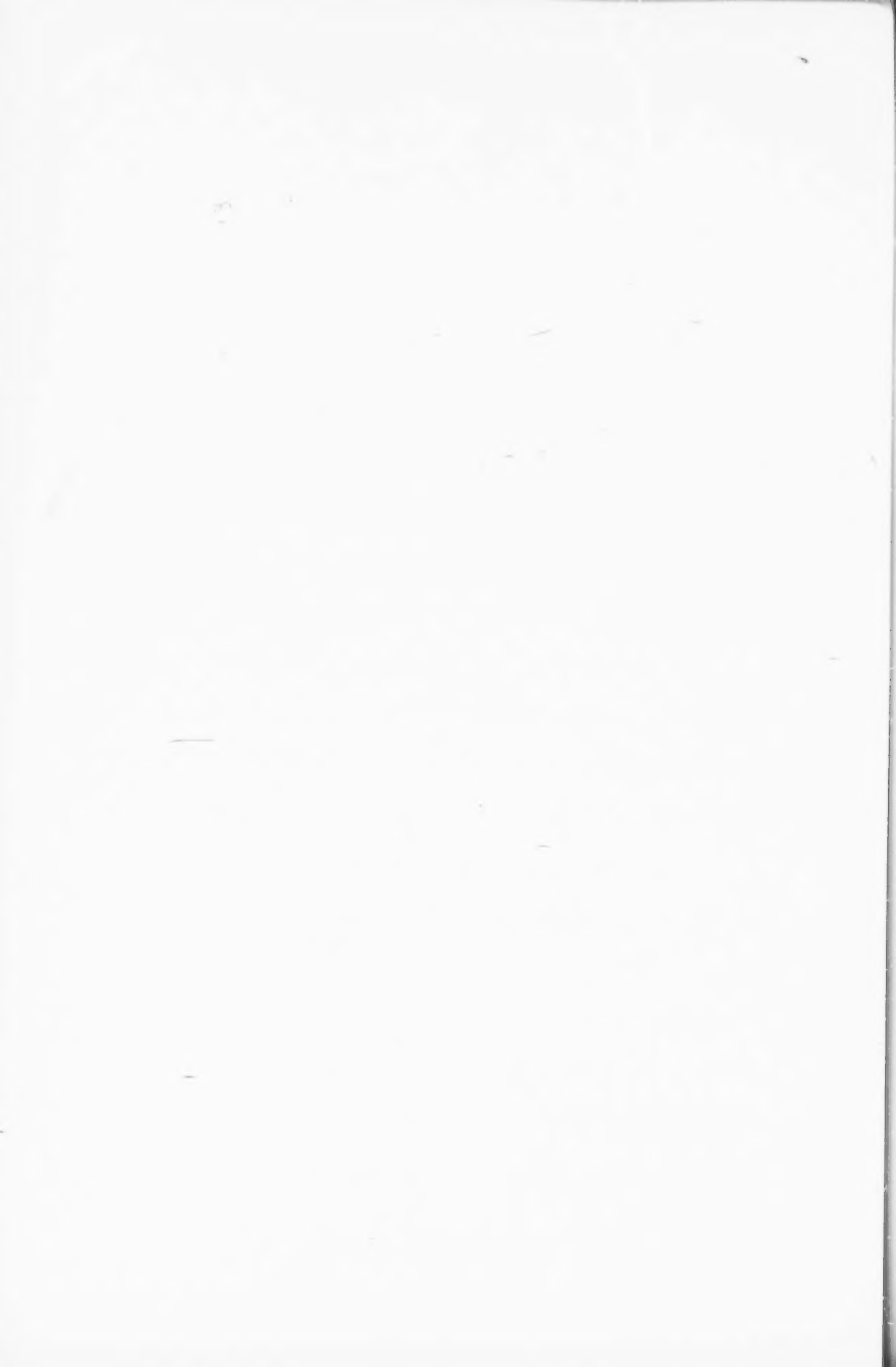
I am returning your check #525 in the amount of \$100.00 that accompanied your letter of May 12, 1988 requesting a transcript of proceeding held in the month of October, 1987.

As reflected on the enclosed copy of the Court's docket sheet, the only motion in the above reference case in October was Oct. 7, 1987 and no appearance was made at that

I am sending you a copy of the Court minutes of September 30, 1987 in hopes this is the hearing you are referring to.

The Clerk of Court cannot provide you with a transcript of court proceedings. The Court Reporter in attendance is the person you should contact. Sincerely,

s/ Jo Ann Benoit
Lake Charles Div. Deputy Clerk



Testimony of Ewell J. Faul 8/3/87 who attached her property in Sept.1987, which property he had plans to take control of in 1981 before he sued her in 1983.

Q. You mentioned the Faul Energy Company that you had at one time.

A. Yes.

Q. When did you have the Faul Energy Co.?

A. It was in either '82 or '83. Let's see probaly '84, 1984.

Q. What does the Faul Energy Company do?

A. Look for oil and gas, or it did look for oil and gas.

Q. Did you have any Federal contracts?

A. No, I did not.

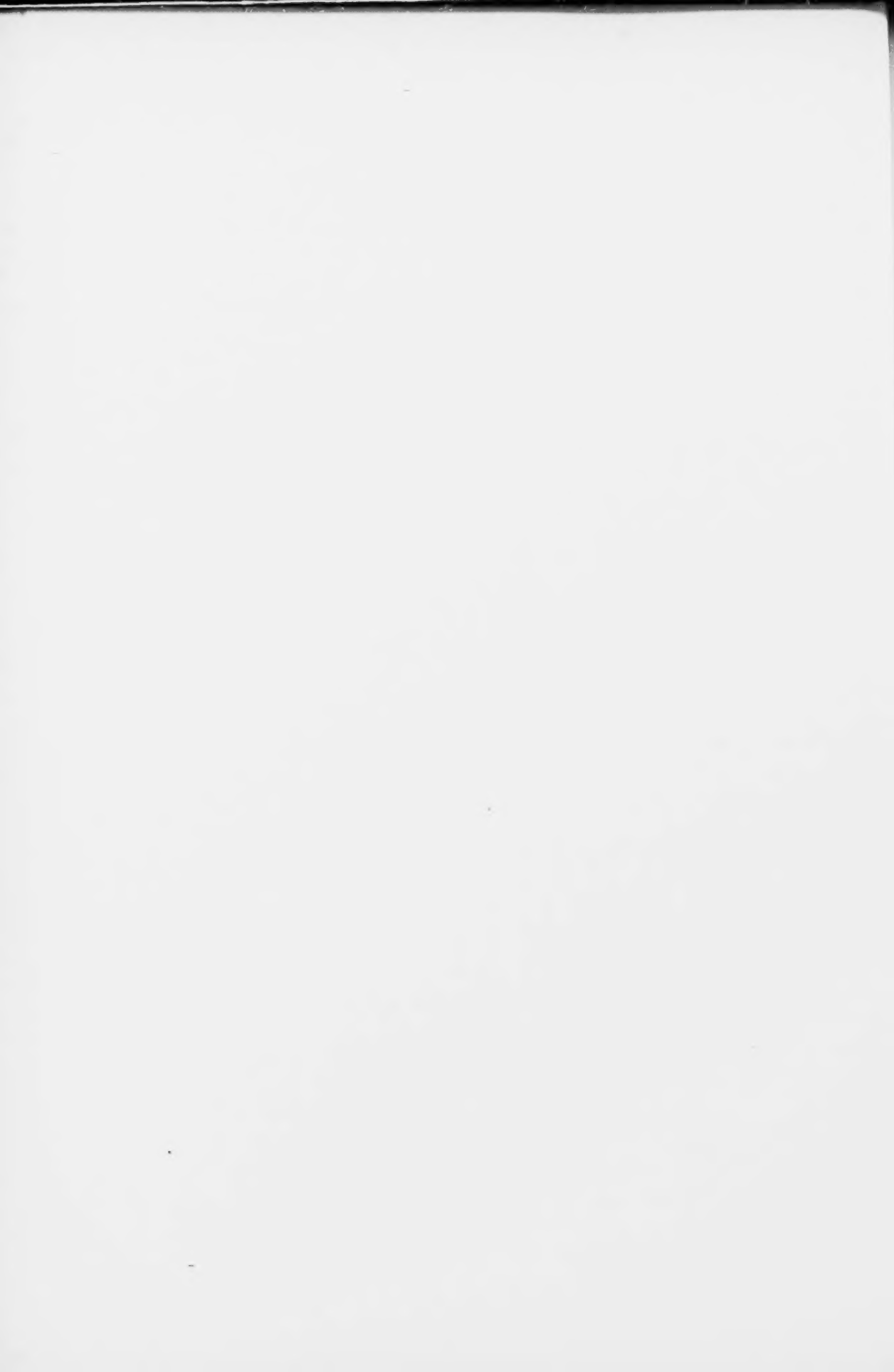
Mr.Brandt: I object. This is irrelevant.

Court...You have to state the relevance at time.

Mrs.Benson: My reason is,Your Honor, that it is my understanding that somebody has decided that it is a land treatment area, watershed.

Court. And? And if?

Mrs. Benson: Well, I don't like that



idea with my property. I never approved any such thing nor would I approve of any such thing --

Court: You own it, so you don't have to...

Mrs.Benson: There is new interest in the oil industry in the immediate area where this land --

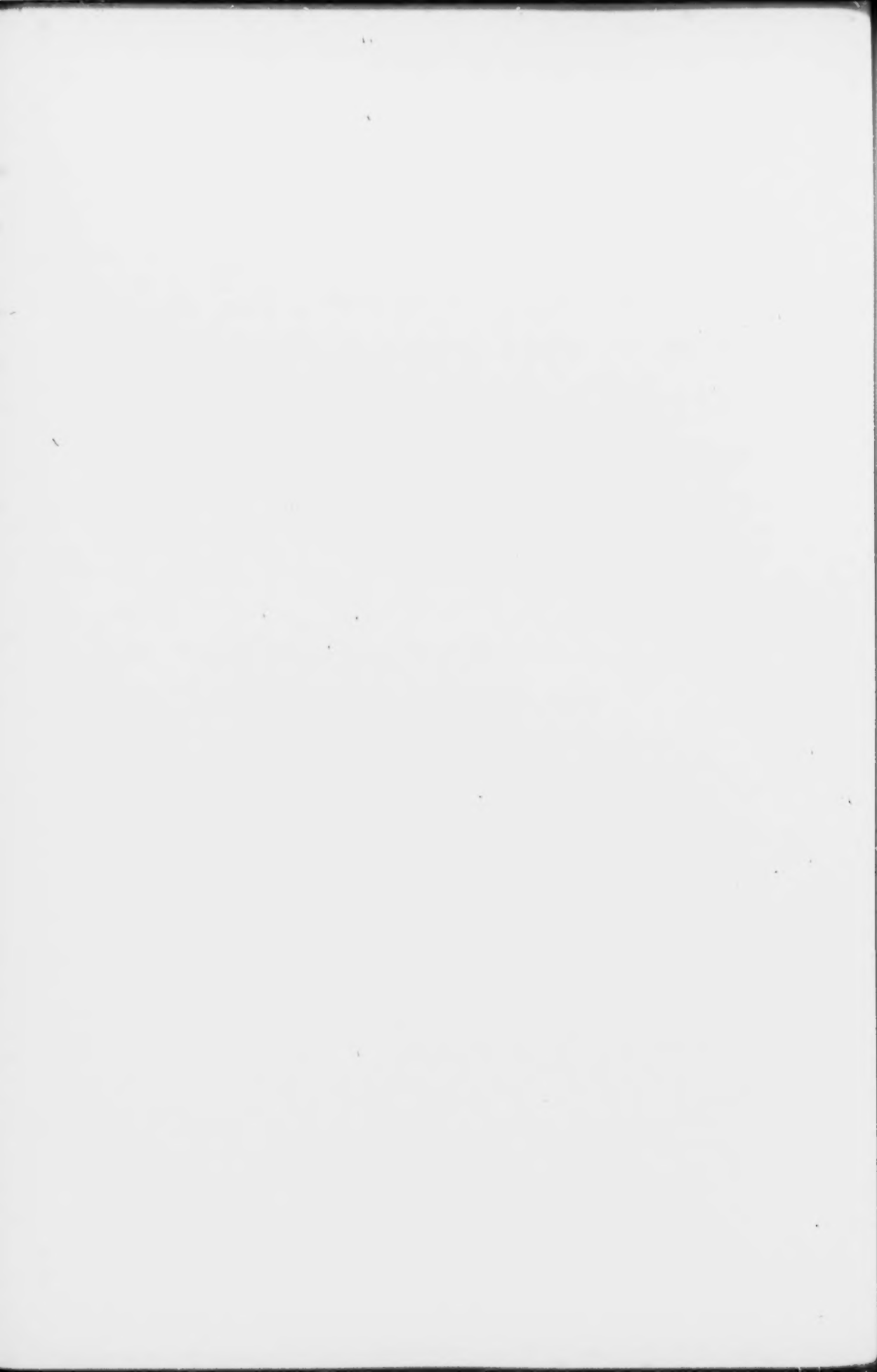
Mr.Brandt: Your Honor, I think the Court's ruled. Could we go ahead and move along?

Court: This is another reason.

Mrs.Benson: There is new interest in the area in a well, and people are going around sending letters to buy oil interests and to lease, so as you well know, they need not drill a well on your land to include you in it. They can pool you in it, you know, so from that standpoint Ewell could have an interest.

Court: He doesn't have an interest unless you sign up. I'll sustain the objection on that.

(They got summary judgment for Faul Energy without discovery also in 1986; said E.J.Faul only had a few share of Faul Energy!)



UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

LOUELLA F.BENSON

VS.

EWELL J. FAUL, ET AL

CIVIL ACTION

No. 86-0489

U.S.District Court
Western Dist.of La.

F I L E D

Jul 12, 1988

Robert H.Shemwell

Clerk by: Py deputy

AFFIDAVIT

STATE OF LOUISIANA

PARISH OF ACADIA

BEFORE ME, the undersigned Notary Public,
personally came and appeared WILLIAM C. GIBSON,
who upon being duly sworn did depose and say:

"In March of 1984, I was employed as a
Deputy Sheriff of Acadia Parish, Louisiana.
Sheriff Elton A.Arceneaux, now deceased, was
the Sheriff of Acadia Parish, Louisiana, in
March of 1984. During this period of time, I
was working as a dispatch officer, answering
the telephone and noting complaints.

While working as dispatcher, I received a
telephone call from Louella F.Benson regarding



some action by her brother-in-law, Forest Bearb, who is now deceased, and who was then also a Deputy of the Acadia Parish Sheriff's Department. Although I have no independent recollection of this telephone call, I did make a notation in our telephone log in accord with our usual practice and was not responsible for any further action on the matter. I was not commissioned as an investigating officer or detective; however, I did make note that the alleged action took place in St. Landry Parish, Louisiana, clearly beyond the territorial jurisdiction of the Acadia Parish Sheriff's Office.

I have at no time ever made any statement, sworn or otherwise, regarding the mental condition of Louella F. Benson. I have not submitted any reports, affidavits or any other type of information to Glenn A. Ally, Ph.D.

All of the statements contained in

this affidavit are correct in accordance with my best knowledge, information and belief."

s/ William C. Gibson

SWORN TO AND SUBSCRIBED before me,
Notary Public, this 7th day of July, 1988,
at Lafayette, Louisiana.

HA (sp)

NOTARY PUBLIC

Edwards Stefanski
Barousse Cunningham
Stefanski & Zaunbrecher
P. O. Drawer 730
Crowley, La. 70526
318 237 6881

STATE OF LOUISIANA

PARISH OF

Before me, the undersigned authority, personally came and appeared William C. Gibson, of the full age of majority who, after being sworn, did depose that:

Sometime in March of 1984, while I was employed with the Acadia Parish Sheriff's office as a deputy, I received a telephone call approximately 9:00 at night from a woman who said she was calling from Alexandria, Va. The woman wanted to speak with the Sheriff, who was not in at that time of night. I explained that she would have to call back in the morning to speak with the Sheriff. She said she would talk to me about it anyway. She stated that she wanted to report her brother-in-law, who was a deputy with Acadia Parish, and that his name was Forest Bearb. I asked the nature of the complaint and she stated that she and her sister (Mr. Bearb's wife) were joint owners in some land and were having trouble dividing the property and that



Mr. Bearb went to the property and ran off some surveyors that she had working there. I then explained to this woman that I was not the person to talk to about this and she should call back the next day. She said that was alright, that she wanted to talk to someone about it and then proceeded to tell me her life story and all the troubles she had. I tried, without success many times to get her off the telephone. Since I was working the radio as dispatcher and taking all incoming calls to the office, I had to put her on hold many times. Sometimes she would be on hold for five minutes, but did not hang up. I had an uncomfortable feeling about the woman's state of mind. Everything she told me was repetitious throughout the conversation. Finally, after what seemed to be about forty-five minutes, I had had enough and I told her I was going to have to cut her off. She acted as if she had not heard a word I said and kept on talking. I then hung up on her.

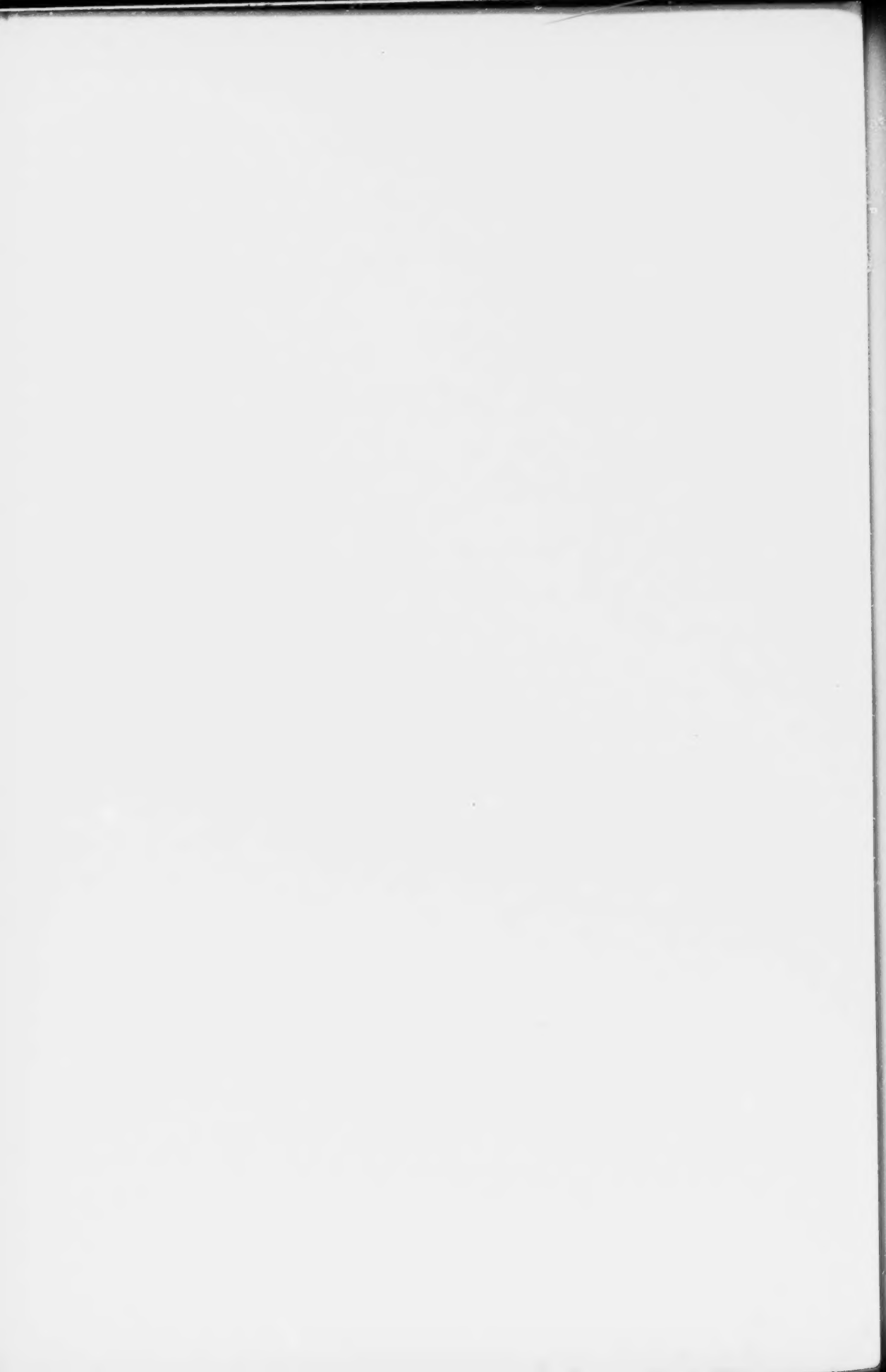


____ The next day I saw Mr. Bearb and asked him if this lady was mentally unbalanced. I told him of the conversation and he said "don't worry about it." I've known Mr. Bearb for about ten years and have never heard anyone say anything bad about him. Everyone who has known him thinks he is the best. About the time this phone call took place, he had received the American Legion award for outstanding lawman of the year.

s/ William C. Gibson

SWORN AND SUBSCRIBED BEFORE ME, the undersigned authority, this 20th day of March, 1985.

s/ S F (sp)
NOTARY PUBLIC

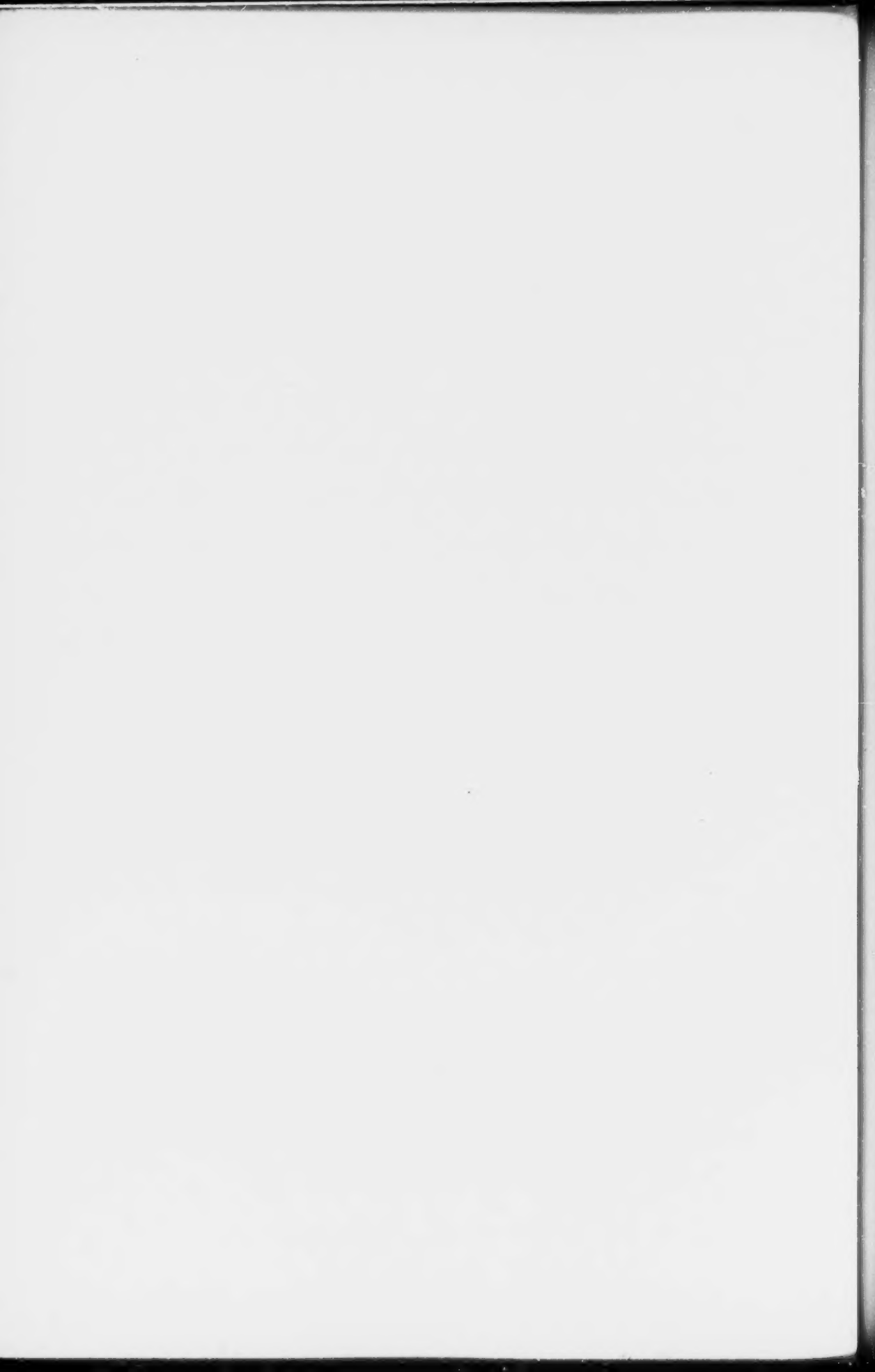


COUNTY OF FAIRFAX

In response to the Affidavit of William C. Gibson, I Louella F. Benson, duly sworn, deposes and says:

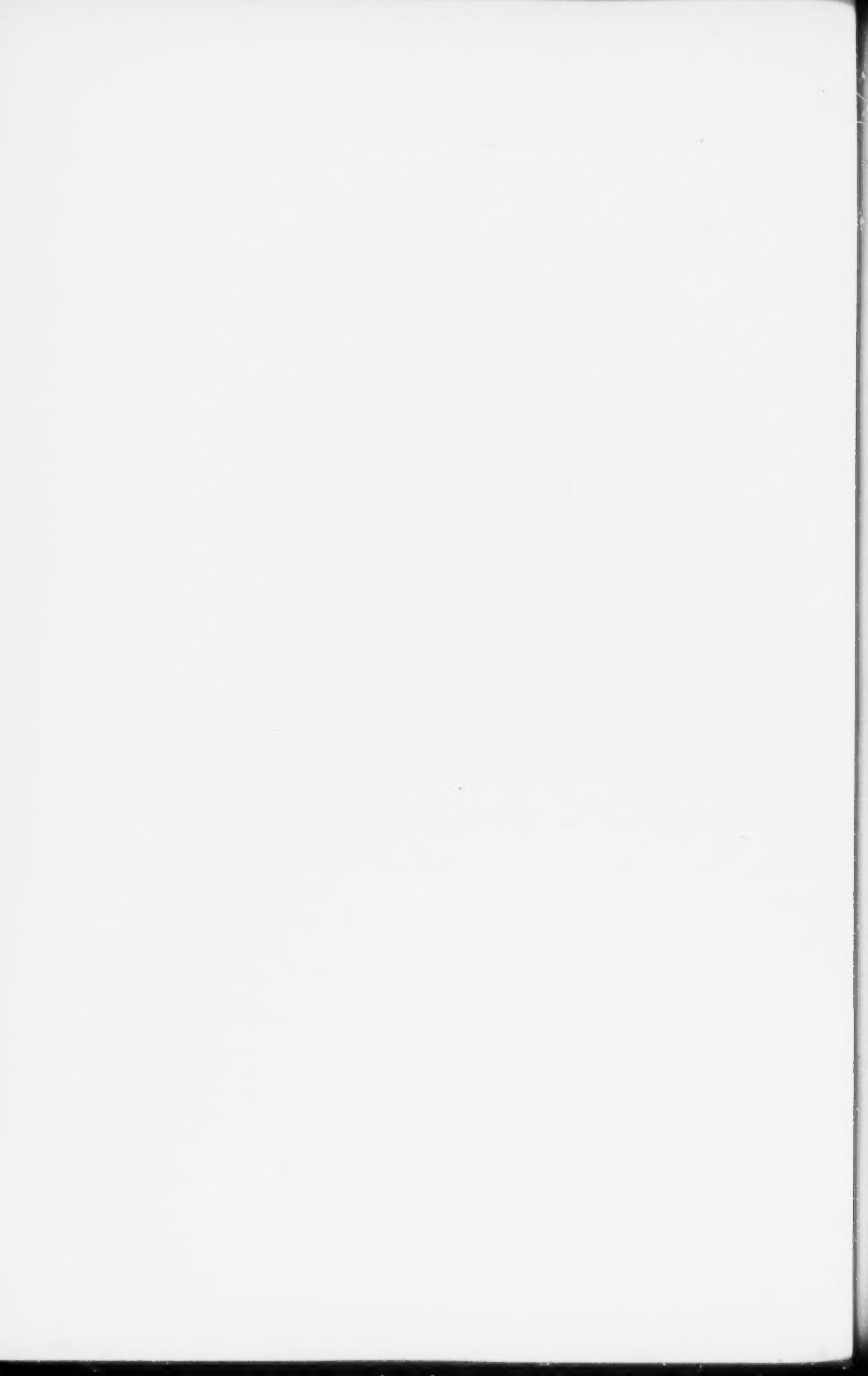
Mr. Gibson writes that he was employed with the Acadia Parish Sheriff's Office as a deputy in March of 1984, when I called the Sheriff's Office but he completely failed to say what I said. First, Mr. Bearb's wife and myself were not joint owners in some land as he states, so I am certain I did not say that. (Lois and Leslie legally divided Tract 3 in January 1984, which is the land I purchased from Leslie Paul.)

My telephone bill for April 1984 shows that on March 27, 1984, at 8:09 Eastern time (7:09 p.m. Central time); not approx. 9:00 at night as he writes, I called Crowley, La., 318-783-5616 and the period of time was 15 minutes; not 45 min. as he implied. I am not in the habit of calling people I do not know to tell them my life story but could not have done so if I had tried in 15 minutes. I am 50



years old. Also, Mr. Gibson adds that "he put me on hold many times" and "sometimes she would be on hold for five minutes....I then hung up on her." Mr. Gibson did not hang up on me. If he put me on hold many times and left me holding sometimes for five minutes that does not leave much time for conversation in 15 minutes. If I was repetitious, he still did not get the message as revealed by the attached copy of letter which I hand-carried to the Sheriff's Office just before dark on the evening of May 4, 1984 when I drove in from Houston.

As revealed by the attached letter, "I reported to Officer Gibson over the phone this week, Forest Bearb, one of your officers (and my sister's husband) came on my property in St.Landry Parish on Friday 23 and informed me that I had committed a forgery in Houston.." (My letter has never been answered nor was the information I requested re the "forgery" furnished.) Clearly, the gentleman was not

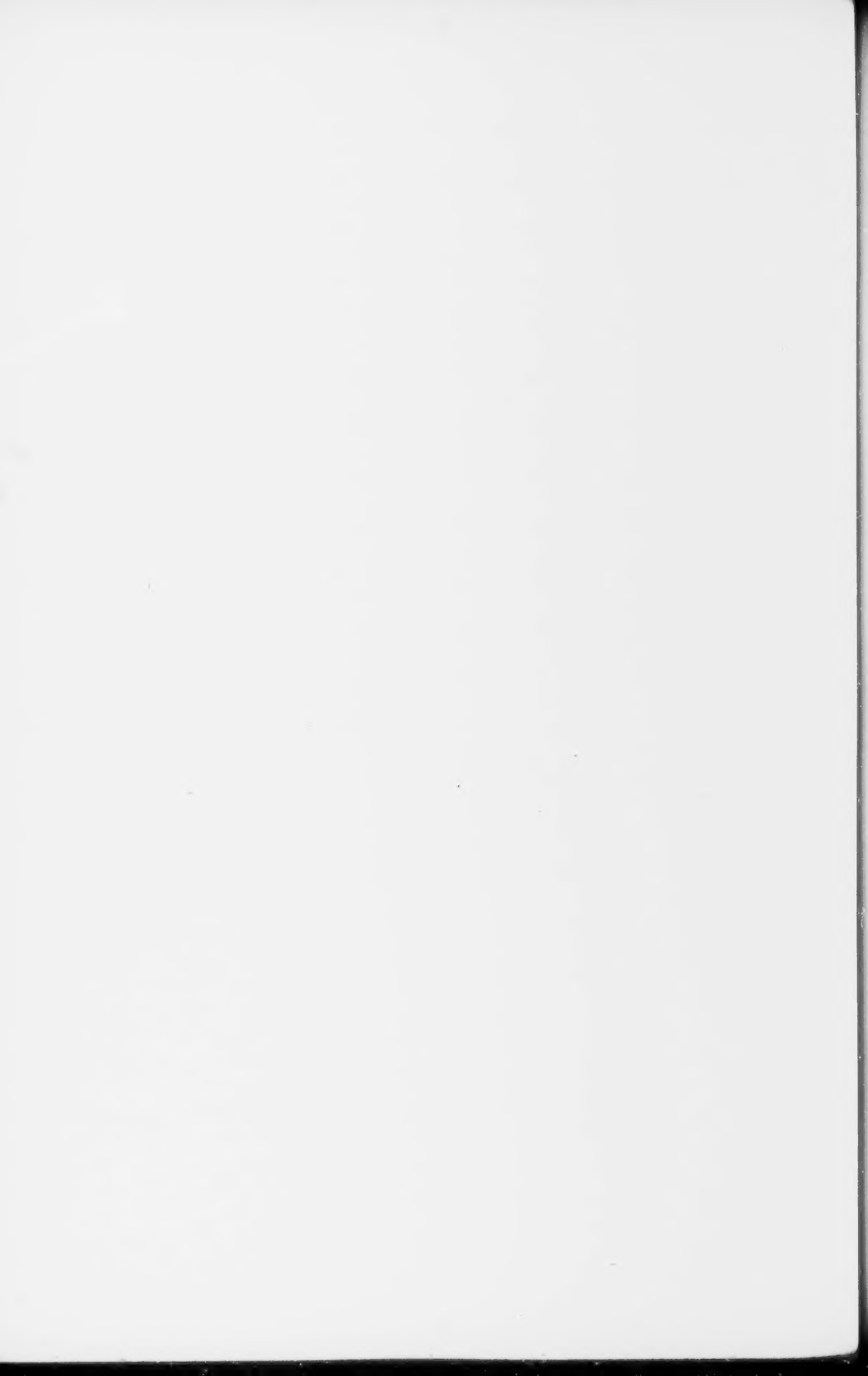


interested in the fact that I called and reported that Forest Bearb, an Acadia Parish policeman, had come on my property in St. Landry Parish and accused me of a crime I did not commit. His affidavit was instigated to discredit me and to help Forest Bearb. The above mentioned inconsistencies discredits Mr. Gibson and his affidavit should be ignored. It does not deal with the issues in my pleadings and I object and take strong exception. I request that it be rejected.

s/ Louella F. Benson

Sworn and subscribed before me, the undersigned authority, this 12th day of April, 1985.

s/ J.P. Mcfelton (sp) My commission expires Sept. 8, 1985.



6432 Montrose Street
Alexandria, Va. 22312

March 28, 1984

Sheriff Nelson Arceneaux, Acadia Parish
P. O. Box 289
Crowley, Louisiana 70527

Dear Sir:

As I reported to Officer Gibson over the phone this week, Forest Bearb, one of your officers (and my sister's husband) came on my property in St. Landry Parish on Friday 23 and informed me that I had committed a forgery in Houston. When I begged Forest to tell me who, what, when etc. (because I have never committed any forgery or any crimes) he would only say "that lady in Houston", said they were "working on it" and assured me that I would be nailed, and made other defamatory untrue inferences about me.

Under the applicable provisions of the Freedom of Information and Privacy Act please make available to me copies of any and all information you may have pertaining to me Louella F. Benson or Louella M. Faul, including the name of "that lady" in Houston he



referred to and a copy of the "forgery" he accused me of. It is my understanding that when Forest was confronted with this by someone else he repoded that he did not know any thing about it (since the incident on Friday, march 23). He also stated, I was informed, that "he told me he would slap me" if I stepped on my sister's property.

I was not on my sister's property but he came on my property to talk to surveyors I hired to do work on my land which I have inherited in one area and purchased in others. What gives Forest the right to flash his badge and a little balck box (which he was wearing at the time) on my property in St.Landry and to insult me verbally with untruths?Neither the prior surveyors (who aborted the efforts after contact by Bearb and their lawyer) nor the recent surveyors had any interest in the Bearbs, their stickers, or my sister's 4+ acres. Therefore, Forest's presence on my property to speak to the surveyors I employed to do work for me was unwarranted, as was the

calls by he and/or his lawyer to the supervisors of these men. A trip home costs me about \$1,000.00. I have a heart injury and do not take the problems created for me lightly in this area. (What was the purpose of the little black box and provide any information obtained.)

How is it that Forest happens to know when I am at home when I have no contact with them whatsoever? What gives the Acadia police (or any police) the right to be "working on it" as Forest told me when I am and always have been a law abiding citizen? The FCI request (and Privacy Act) request also extends to any area of government in which Forest or the Acadia Police may have been contacted pertaining to me, or any involvments, i.e., surveillance, controls, research.

While I had hoped that this letter would not have been necessary after the first encounter, the recent above-described incident leaves me no choice and I am certain you can appreciate the seriousness of the situation

re the untrue defamatory accusation. I will demand my complete civil and constitutional rights in all areas and I fully intend to go on my property without police harrassment and to hire whoever I want to-to do whatever work I elect to do without Forest's presence or he and/or his lawyer's intervention. What regulation justified the Acadia Police to come in St. Landry Parish? Your prompt attention would be appreciated. What justifies Forest or any police intervention in any area of my life?

Very truly yours,

s/ Louella F. Benson

s/ D.E. Zaunbrecher

Re'd - 5 - 4 - 84

(Note - letter missing from the files of the Acadia Parish although former Officer Zaunbrecher signed for it)



C&P Telephone Account Number 703 256 7595 334

APR 5 84

DETAIL OF ITEMIZED CALLS PAGE 7

DATE	TIME	CALLED-PLACE	AREA-NUMBER	RATE	MIN
AT&T COMMUNICATIONS (CONT.)					
3 27	809PM	CROWLEY LA	318 783 5616 *E	15	4.08
3 27	805PM	OPELOUSAS LA	318 948 6516 *E	2	.64
3 27	847PM	OPELOUSAS LA	318 948 6516 *E	17	4.60
3 27	821PM	FR OPELOUSAS LA	318 942 8768 FE	26	9.98



ACADIA PARISH SHERIFFS DEPT. ELTON A. ARCENEUX
SHERIFF

<u>Louella Benson</u>	<u>Charges against Dy.</u>	
6432 Montrose	<u>St. Landry Parish</u>	
Alexandria, Va.	<u>Location</u>	
<u>Dy. Gibson</u>	<u>7:05</u>	<u>3-27-84</u>
<u>Received by</u>	<u>Time</u>	<u>Date</u>
<u>None</u>	<u>No. 14362</u>	

Officers Assigned

Details of Complaint or incident

Subject phoned and wanted to speak to the sheriff about one of the Dy.'s who she had a complaint against. After I explained the sheriff was not here she wanted me to take down the information for the complaint. Ms. Benson is the sister-in-law of Forest Beard and she says Forest went in St. Landry Parish and using his badge ran off a survey crew she had on her land. She and Mrs. Beard are sisters and own some land in St. Landry Parish. The Survey crew was on her part of the land and this was the second time this had happened. The first time she let it go because of her sister but this time she has filed charges in St. Landry on Forest. Ms. Benson is going to contact the Sheriff either by phone or by letter.

Gibson



MINUTE ENTRY

U.S. DISTRICT COURT
WESTERN DISTRICT OF LA.
F I L E D

WALTER, J.

Jan 5 - 1989

Jan.4, 1989

ROBERT H. SHEMWELL, CLERK
by LC - Deputy

LOUELLA F. BENSON

VS.

Civil Action
No. 86-0489

GLENN A. ALLY, ET AL.

Pending for determination is a motion for summary judgment by defendants Williams C. Gibson ("Gibson"), former Deputy Sheriff of Acadia Parish, Louisiana, and Southern American Insurance Company ("Southern"), the insurer of the Acadia Parish Sheriff's Department. Gibson has presented compelling evidence that he never submitted to Glenn A. Ally, Ph.D., any statements, reports, or other information concerning plaintiff's mental condition. Plaintiff opposes, submitting both copies and originals of various affidavits and exhibits in which she refutes an unsworn statement bearing defendant Gibson's name in which he refers to plaintiff's mental condition. Plaintiff has 20 days to present to this Court evidence that



the unsworn statement of Gibson is in fact genuine and was submitted to Dr. Ally for the purpose of developing his mental evaluation of plaintiff. Defendants will then have 10 days to respond to any submissions presented by plaintiff.

s/ DEW

COPY SENT:

DATE 1- 6

By CM

TO: Benson

Brandt

Barousse, Jr.

(Note: Defendants did not respond after plaintiff presented evidence that Mr. Brandt had submitted the Gibson 1985 affidavit to Ally (psychologist in La. who does not know plaintiff) for his evaluation and to the Courts.)

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

LOUELLA F. BENSON,
 plaintiff

C.A. No. CV86-0489

VS.

Section L

GLENN A. ALLY, PhD. et al
defendants

THIRD SET OF INTERROGATORIES TO LOIS F.
BEARB

To: Lois T. Bearb
Through her-attorney of record:

Charles Brandt, Esq.
300 B Stewart Street
Lafayette, La. 70501

Interrogatories are being sent for Defendant Lois F. Bearb through her attorney of record, to be answered fully in writing by her and under oath within (15) days in accordance with F.R.C.P.

1. Were you in Lake Charles La. during the week of Feb. 1-5, 1988, and did you at anytime (including prior to that date) talk about me to the La. State Troopers or with anyone in any way involved in trial against the State of La. et al, and if so state who, when, give address.



Did your attorney or anyone you know of intervene in above Lake Charles case in anyway, and if so please gave names and addresses of those involved.

Produce in writing copies of any information made available to the Court in subject case in support of Motion for Mental Evaluation, and if it was based solely on my complaint, please so state, and if there were any interveners in subject case for any reason give complete details, names, addresses.

Do you have objective scientific evidence showing that you are sane, and if so give the date and name of the doctor who certified to same?.....

The above interrogatories are continuing and the party responding to them is under duty to supplement her responses to include information thereafter required.

s/Louella F. Benson
6432 Montrose St.
Alexandria, Va. 22312
703 256 7595

I certify that the original and a copy of the foregoing are being mailed certified on April 2, 1988, to Charles Brandt, Esq.
300 B Stewart St., Lafayette, La. 70501

s/Louella F. Benson
prose



UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

LOUELLA F. BENSON,

Plaintiff

C.A.No.CV86-0489

vs.

SECTION L

GLENN A. ALLY, Ph.D. ET AL
Defendants

INTERROGATORIES TO DEFENDANT LESLIE FAUL

TO:

LESLIE FAUL

Through his attorney of record:

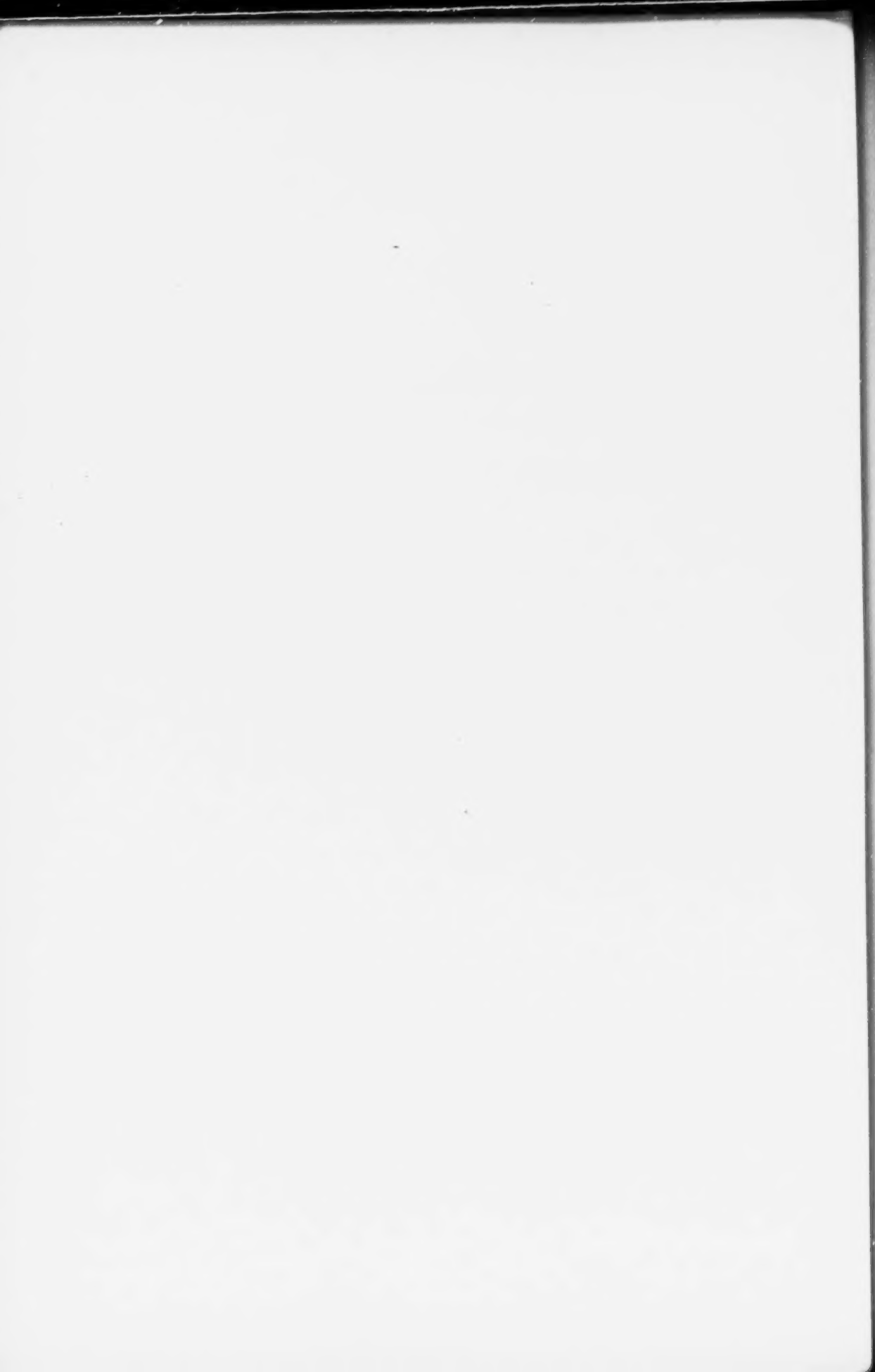
Charles Brandt, Esq.
300 B Stewart Street
Lafayette, La. 70501

Interrogatories are being sent for Defendant Leslie Faul through his attorney of record, to be answered fully in writing by him and under oath within (15) days in accordance with F.R.C.P.

.....

The Waste Management Co. you mentioned was trying to obtain the farm, was it a private or public company and please give full name and address.

In May of 1984, on the day after I hand carried a letter to the Sheriff in Crowley, La.,



re Forest Bearb, I was arrested in Sulphur after being under surveillance by troopers who were looking for drugs and weapons and I was brutalized, did you in any way have anything to do with this intervention, and if you have ever personally ever intervened in my life for "treatments", please state when, for what condition, and give the names of the doctors, govt.agency, programmers, who authorized or dispensed any "treatments"?

The above interrogatories are continuing and the party responding to them is under the duty to supplement his responses to include information thereafter required.

s/Louella F.Benson, prose
6432 Montrose Street
Alexandria, Va. 22312
703 256 7595

I certify that the original and a copy of the foregoing are being mailed via first class mail postage pre-paid to Charles Brandt, Esq. at 300 B Stewart St., Lafayette, La. 70501, on this the 17th day of July 1986. s/Louella F.Benson



IN THE UNITED STATES COURT OF APPEALS FOR
THE FIFTH CIRCUIT

NO 88-4447
USDC No. CV86-0489

LOUELLA F.BENSON,
Plaintiff-Appellant,

vs.

E.F.FAUL, ET AL,
Defendants-Appellees

U.S.COURT OF
APPEALS -FILED
AUG 10 1988

GILBERT F.
GANUCHEAU
Clerk

Appeal from the United States District
Court for the Western District of Louisiana

Before GEE, RUBIN, and POLITZ, Circuit Judges

BY THE COURT: Initialed by TG; ARR and HAP

This Court must examine the basis of its jurisdiction, on its own motion, if necessary. Mosley v.Cozyby, 813 F.2d 659,660 (5th Cir.1987). In this diversity suit, the plaintiff has appealed from orders of the district court dismissing some but not all the defendants. Specifically, defendant William C.Gibson remains as a party-defendant to the litigation. An order which disposes of fewer than all the defendants is not appealable without a certificate from the district judge under Fed.R.Civ.P.54(b). Thompson v.Betts, 754 F.2d 1243,1245 (5th Cir. 1985). The district court has entered no Rule 54(b) certificate. The appeal is DISMISSED.

IN THE UNITED STATES COURT OF APPEALS FOR
THE FIFTH CIRCUIT
Nos. 86-4797 and 86-4798
Summary Calendar

LOUELLA F. BENSON,
 plaintiff-appellant,

versus

GLENN A. ALLY, Et Al,
 defendants-appellees

Appeal from the United States District Court
for the Western District of Louisiana
 (CV 86 0489-L)

August 27, 1987

Before POLITZ, WILLIAMS and JONES,
 Circuit Judges.

PER CURIAM:*

*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that rule, the Court has determined that this opinion should not be published.

This litigation consists of two consolidated cases involving a bitter family feud between Louella Benson and various relatives. Benson alleges that the defendants and psychologist Glenn Ally conspired to publish a false report that Benson suffers from schizophrenia and paranoia. Allegedly, the defendants gave Dr. Ally false information about Benson, and, based on this information, Ally published the defamatory report.

On October 8, 1986, the district court granted summary judgment for defendant Faul Energy Co., based on the company's affidavit that it never provided information to Dr. Ally and that it had nothing to do with the alleged defamatory scheme. In addition, Dr. Ally swore by deposition that he received information from some of the Faults but not from Faul Energy Co. Benson submitted no summary judgment proof linking Faul Energy to Dr. Ally but claimed that she could uncover such proof with more discovery. She did not specify what information she expected to elicit by discovery.

Moreover, on July 11, 1986, the district court had denied a motion by Benson to compel discovery, because Benson had made no effort to coordinate discovery with the defendants. Given the evidence and the time allowed for discovery, we affirm the granting of summary judgment for Faul Energy Co.

II.

Under Louisiana law, a statement must be "false" to be defamatory. Cangelosi v. Schwegmann Brothers, Inc., 390 So. 2d 196 (La.1980); Manale v. City of New Orleans, 673 F.2d 122, 125 (5th Cir. 1982).

On October 8, 1986, the district court granted summary judgment for Dr. Ally on the grounds that his report was not "false."

Ally's report stated:

I have not had the opportunity to interview and/or evaluate Mrs. Benson (and) my impressions are based solely on the written statements provided me, and are hypotheses which should be corroborated by clinical evaluation...If one accepts the accuracy of the statements provided me, it would seem, based on these documents, that Mrs. Benson suffers from a chronic psychological disorder, (most likely) schizophrenia, paranoid type. In my opinion there does appear to be sufficient

justification to request further psychiatric/psychological evaluation.

Benson claims that the information on which Dr. Ally relied was false. She also claims that she is not schizophrenic or paranoid. As set out above, Dr. Ally simply gave his qualified, professional opinion that the allegations about Benson, if true, indicate mental problems. Dr. Ally's statement was not "false." See Jacobs v. O'Bannon, 472 So. 2d 180 (La. App. 4th Cir. 1985).¹

To the extent that Benson alleges that Ally committed medical malpractice, her claim is foreclosed by La. R.S. § 40:1299.47, which requires her to present her claim to a "medical review panel" before suing in court. See Seoane v. Ortho Pharmaceuticals, Inc., 660 F. 2d 146 (5th Cir. 1981).

We affirm the summary judgment in favor of Dr. Ally.

1/ Jacobs stated that Soula O'Bannon may have had sexual relations with her father. The court held this statement was not false, because "any thing is possible, and Jacobs was merely stating a possibility...however remote it may be."

III.

On June 2, 1986, the district court under Fed. R.Civ.P.35 ordered Benson to undergo a mental examination. This order was proper because Benson had placed her mental condition in issue, and the record in this case itself indicates the need for such an evaluation. On October 10, 1986, the court ordered Benson to comply with the June 2 order by October 20, 1986. On October 23, 1986, the district court dismissed Benson's suit under Fed.R.Civ.P.37 (b) (2), as a sanction for failing to submit to a mental examination.

We reverse this dismissal for two reasons. First, the court never specified who would exam Benson, as it was required to do by Rule 35. Second, although the district court has broad discretion under Rule 37(b) (2), it made no findings to justify the dismissal. See Baton v. Neal Spelce Associates, Inc., 765 F.2d 511, 516 (5th Cir.1985). ²



IV

Finally, the defendants move to dismiss this appeal, alleging that Benson failed to file a timely notice of appeal.

Benson filed notices of appeal on Oct.31, 1986, while motions to reconsider the summary judgments and the default were pending before the district court. Those motions were denied on November 17, 1986. The consideration of and ruling upon the appellant's motions to reconsider after the notices of appeal were filed rendered those notices "nullities;" "it (was) as if no notices of appeal were filed at all." Griggs v. Provident Consumer Discount Co., 459 C.S. 56,61,103 S. Ct. 400,403,74 L.Ed. 2d 225 (1982). On November 24, 1986, however, Benson wrote the district court clerk to re-urge her appeals. The November 24 letter can be treated as an adequate notice of appeal, and we have jurisdiction to consider this appeal.

We affirm the summary judgments in favor of Faul Energy Co.and Dr.Glenn Ally but reverse the dismissal under Rule 37(b)(2) and remand appeal no.86-4798 for further proceed-in accordance with this opinion.

Via overnight service

IN THE UNITED-STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

LOUELLA F.BENSON
Plaintiff

VS.

C.A.No.85-1239-LC
Judge Veron

STATE OF LOUISIANA, ET AL
Defendants

U.S.District Court
Western District of La.
F I L E D

Mar 07 1988
Robert H.Shemwell, Clerk
By: sm Deputy

N O T I C E

This Notice is to inform that plaintiff will appeal the rulings, opinions, etc. by the Honorable Earl E. Veron, including that of Feb. 1, 8, 25, 1988, rulings during trial and prior ruling in dismissal of supervisors, the Jury verdict of Feb. 5, 1988, all in the above-mentioned case, U.S. District Court, Western Dist. of Louisiana, Lake Charles Division to the Fifth Circuit Court of Appeals (U.S.) under Rules 3, 4(a) of the ARCP and/or under any other applicable rules, of ARCP or of FRCP. Plaintiff is enclosing a check in the amount of \$105.00 which she was told is total fee--

if more is due please inform promptly and amount will be remitted since plaintiff is combining Notice of Appeal of rulings, verdict, judgment etc. with appeal of denial of her Motion for Judgment notwithstanding the Verdict and, Alternatively for a New Trial. Secret report and denial of same prior to 2/25/88 ruling is appealed, and exceptions to both again noted.

By copy of this Notice plaintiff is requesting that the entire record be forwarded to the Fifth Circuit, including letters, motions, all exhibits, etc. transcript and corrections listed if any, and her Response and Opposition to Defendants' Answer to Plaintiff's Motion for a New Trial Etc. and Motion for Release of Secret Report.

By copy of this Notice, plaintiff is also requesting again, all the information necessary so that she can make timely arrangements with the Court Reporter for transcription of

trial. Self-addressed stamped envelope is enclosed so that the Clerk can return all necessary information, forms, Court Reporter's name with mailing address, etc. in view of time limitation, geographical problem.

Respectfully,

s/Louella F.Benson, prose

I certify that a copy of this Notice is being sent via certified mail on this the 3rd day of March 1988 to Thomas L.Lorenzi,Esq., 132 West Broad St., P.O. Box 1743, Lake Charles, La. 70602, counsel for Defendants, and to Honorable Earl E. Veron, Downtown Main Post Office Building, Lake Chalres,La. on this date via overnight mail.

s/ Louella F. Benson

Photo Sheet

Huey I. Littleton Claims Service, Inc.
P.O. Box 1631 Lake Charles, La. 60602

Owner Claimant State of La. I.D.No. _____

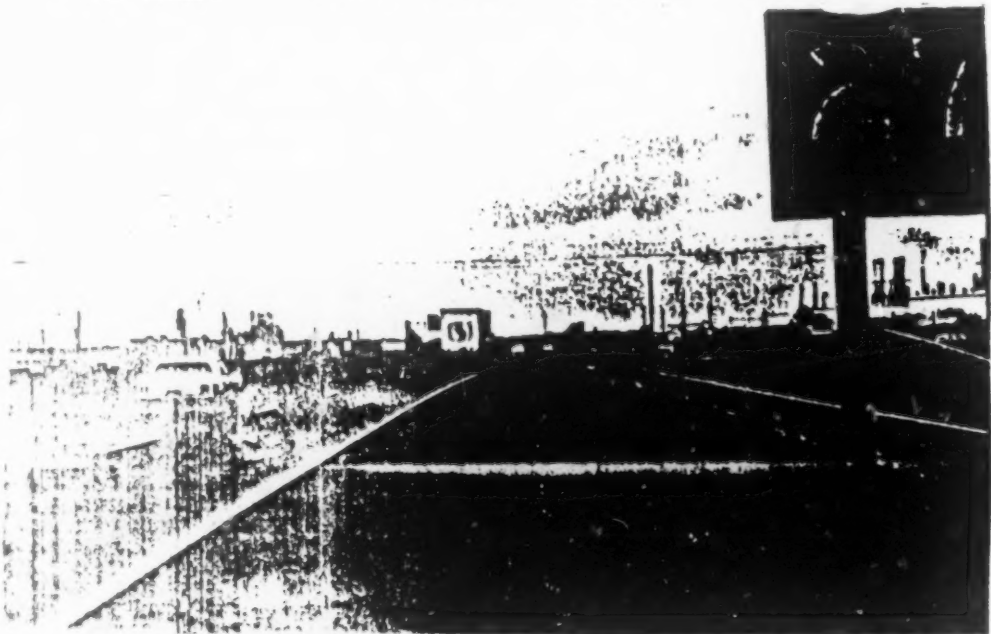
Location Lake Charles, La.

File No. 85CA 26164

Photographed by Don Soileau

Neg. 7

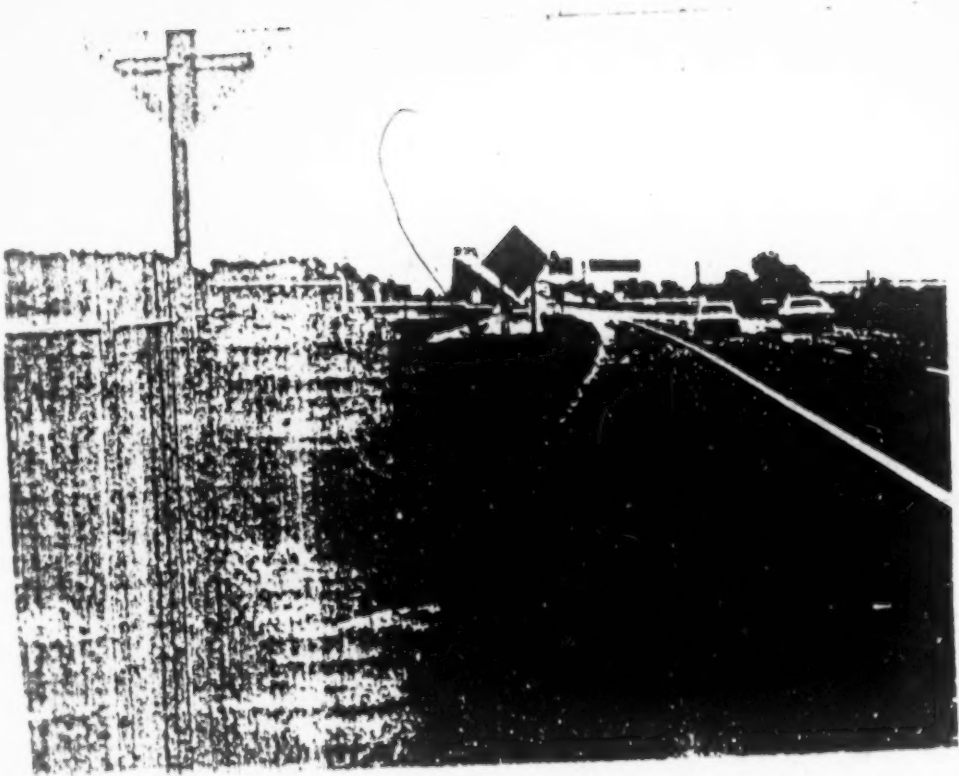
Date taken 7/3/85 Photo #1



Taken by opposition and listed as exhibits
Written by Opposition:
Facing west on I-10 just west of Calcasieu
River Bridge. This is area where claimant
was stopped by police.

Written by plaintiff:
Note: This is not where Odum stopped ap-
pellant. Note ticket given to her on 5/6/84
shows M.P.No. 29. Appellant pulled over when
she got off the bridge where there was ample
room and Odum had her walk alongside her car
facing highway which he admitted. Note Op-
position's photo wrongly shows she was
stopped at M.P. 27.

Picture No. 2 taken by
Opposition-State of La.



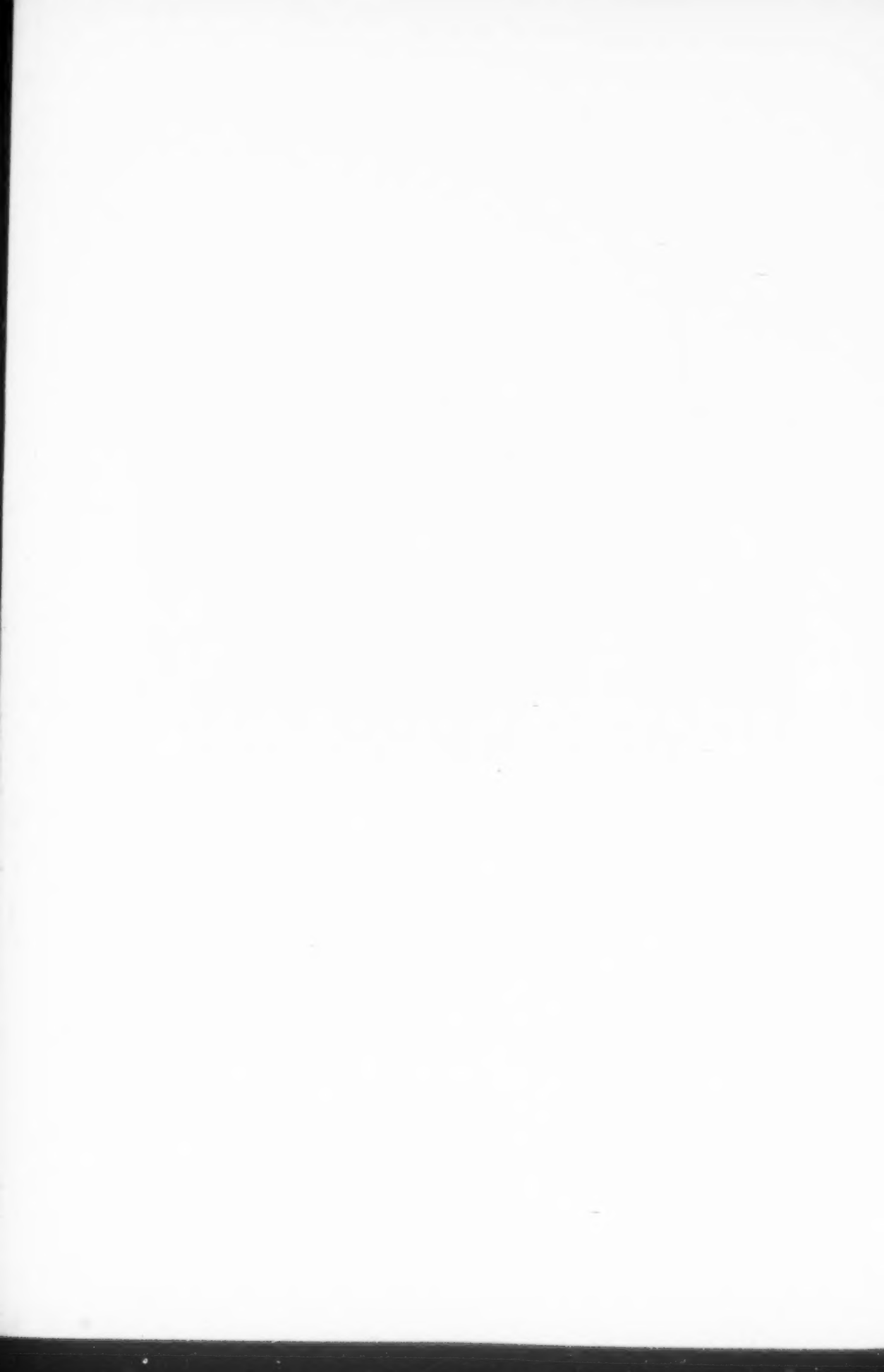
Written by opposition:

Facing east, toward bridge, a
little further west than Photo #1.

Note by plaintiff:

Where appellant parked on side of
shoulder when she was stopped by
Odum. She was going west. Note back
of sign supports her point.

See all space between car and high-
way. Shoulder



UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

LOUELLA BENSON

VS.

SUIT NO. 85-1239LC

STATE OF LOUISIANA, ET AL

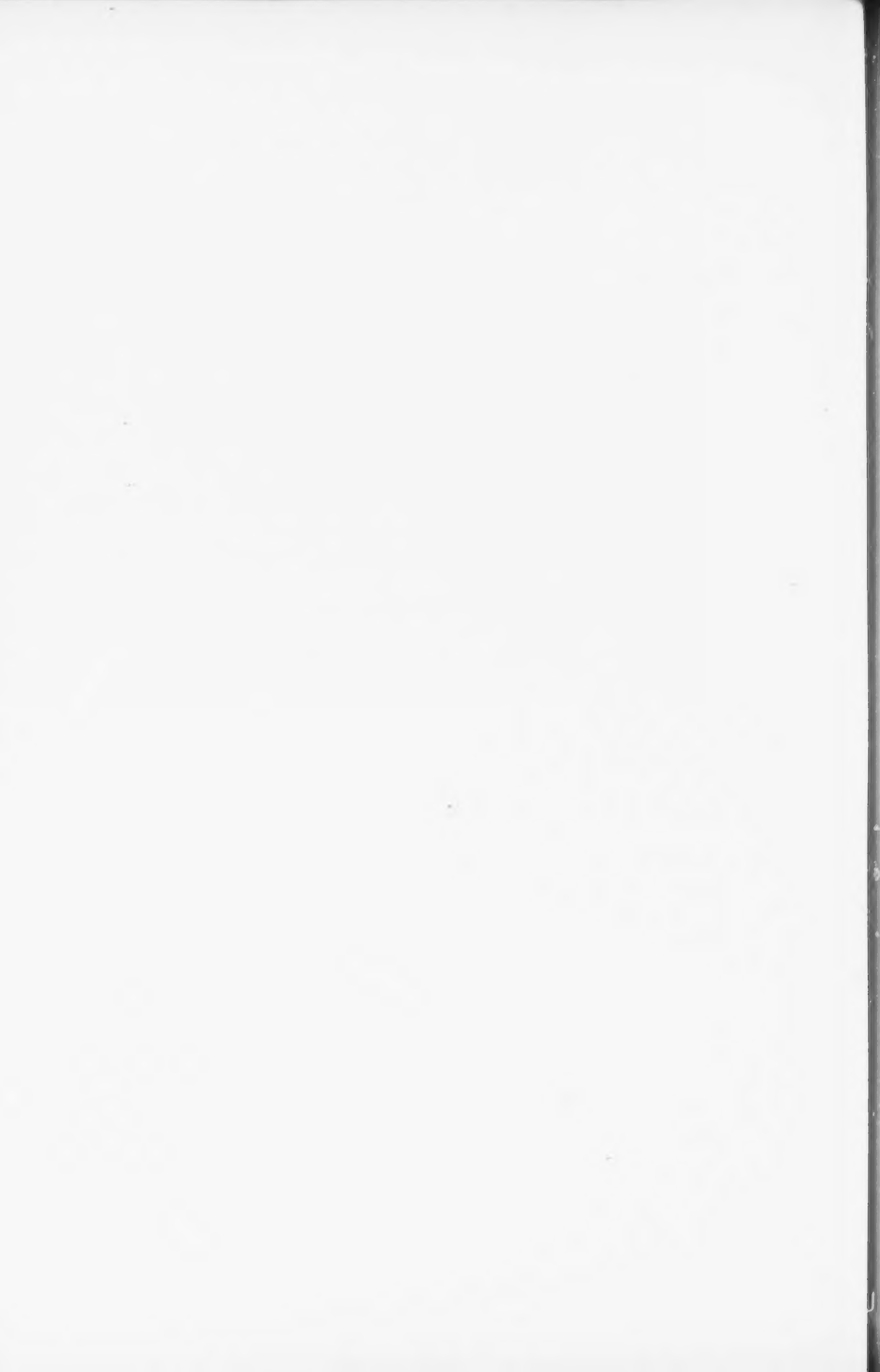
DEPOSITION OF JAMES ODUM

Deposition of JAMES ODUM was taken
in the office of Thomas L. Lorenzi, Broad at
Lakeshore, Lake Charles, Louisiana, on
October 9, 1987, at 2:35 o'clock, P.M.

REPORTED BY:

Vernelle P. Hebert

Certified Shorthand Reporter
Court and General Reporter
P. C. Box 856
Scott, Louisiana 70583



didn't stop you on the bridge. We were on the side of the road on the west side of the bridge, yes, ma'am.

Q."So, we were not on the highway; we were on the side?"

A."Well, if you want to look at the technical definition of highway, highway continues from right-of-way to right-of-way. This is not the main traveled portion of the highway. You were off the roadway on the improved shoulder."

Q."But we were not in the area where the traffic goes? We were not in either of the lanes where the cars go?"

A."No, of course not."

Q."Well, you see, this is what I was driving at awhile ago."

A. "That would have been an unsafe stop."

Q. "Right. And I want to make that point very clear, because that's the point that I was making awhile ago, that Officer Odum did not have me in the road when he stopped me. Okay. Why did you leave the troopers?"



Was it upon your own accord that you decided to retire?"

A. "Yes, ma'am, it was. I had my 20 years in with the department, at such time I was qualified for retirement, and I took it."

Q. "Have any complaints ever been made against you?"

A. "I'm sure there have. I don't recall any, specifically."

end of page 5 of Odum's
deposition



A. "What report, ma'am, which one?"

Q. "The report you wrote of the arrest."

Mr. Lorenzi. She's asking if you know.

A. "Oh, no, of course not."

Ms. Benson:

Q. "You don't know why it wasn't made available to me?"

A. "Of course not."

Q. "But you wrote the report?"

A. "Yes, ma'am. And as individual officers, we don't release this information. It's got to come through the administration section, through the District Attorney's office, or through Baton Rouge.

Q. "I believe you said I was under surveillance."

A. "In the interrogatory, you asked if I knew if you were under surveillance, and, of course, I had you in view in front of my vehicle for approximately a minute to a minute and a half, and in the context of you using surveillance in those terms,



you were under surveillance by me for a minute and a half while you were driving erratically on the bridge."

Q. "What do you mean by driving erratically?"

A. "You were driving at a speed less than the posted speed limit."

Q. "What speed was I driving?"

A. "Between forty (40) and forty-five (45) miles an hour ."

End of page 10 of Sgt.Odum's
deposition of 10/9/87.



MOTION FOR MISTRIAL

Transcript 385-87 by Louella F. Benson

Ms. Benson: "Your Honor, before you bring the Jury in, I have a motion I would like to file."

The Court: "You certainly may, Ma'am."

Ms. Benson: "Okay. Your Honor, with all due respect, it's a Motion for a Mistrial. And my reasons for that are due process violations. The Letting in of the secret profiling by the prosecutor before the Jury of the, very paranoid, by the prosecutor who did not know me. And further having kept that secret from me for all those years after the charges were dismissed. That's one point. The other is I feel that, I hate to say this, Judge, but you have intimidated me, and your scolding me before the Jury and all has affected this case. And you have embarrassed me in front of my husband and my expert. I don't claim to be a lawyer, but I can function if given a chance. I have tried two cases against lawyers and won both times. I don't



know the law, but I do know there are laws where pro se persons have a right to represent themselves. And they should be given consideration and taken seriously. Another point, there were prejudicial comments made by Your Honor at the Motion for Discovery. I had ignored it, but Your Honor had told me that the State of Louisiana is broke, and that this case was like a tough piece of meat, the more you chew on it, the tougher it gets. and that was before the trial.

And after I had testified that the Troopers had read my correspondence, including with my lawyer, Your Honor made some kind of comment, to the effect that that was not so, and this was in front of the Jury. And that is a key point, and also not letting me file my Motion in Limine, physically, by My written Motion in Limine, pretrial to prohibit certain matters prior to trial. And also Your Honor made a remark before the Jury to Officer Fox that he noticed he had been promoted to Sergeant, and that may or may not be inappropriate.



But certainly, in my opinion, Seg. Fox has treated me very badly when he was a trooper. So for those reasons, I must respectfully ask, with all due respect, that you consider my motion for a mistrial.

The Court: "All right. Give me the reasons again. Number one is what, Ms. Benson, please.?"

Ms. Benson: Number one was letting in the information that the prosecutor, Mr. Ware, wrote on the folder about my being a very paranoid woman, and not telling me about it, or my attorney, and keeping it a secret from me, Mr. Ware not knowing me at all, and not being qualified to make such a statement that discredits me before the Jury. And it is tough enough to be pro se without telling the Jury this is a very paranoid woman."

The Court: "And what was the second one Ma'am"

Benson: "The second one, Your Honor, was--"

The Court: "Let me Just help you, Ms. Benson. Do not hesitate to say anything that you feel that I have done wrong. Because you have got that right to say that I have done wrong.."

Ms.Benson: "Violation of my due process right. I feel that Your Honor has intimidated me, and made it very difficult for me to present my evidence, and including before the Jury. And I feel that Your Honor has embarrassed me before my husband and my expert.

The Court: "How did I do that, Ma'am?"

Ms.Benson: "When you--"

The Court: "That is Number three, embarrassed you before--Well, we will cover it later. Embarrassed you."

Ms.Benson: "Before my husband and my expert, and before the opposition. And after I testified that the troopers had read my correspondence, including my private correspondence with my attorney, at the time of the incident, Your Honor made some kind of comment, to the effect, well, I don't remember the specific words, but to the effect that was not so, or something to the effect. I don't remember the exact quoting. But Your Honor did not seem to think that they had read it. And then, Your Honor, you also, before the Jury, congratulated



Sergeant Fox for his promotion to sergeant. And I believe he was not a sergeant at the time of the incident. And I feel he treated me very badly. And that may or may not have influenced the Jury. And I also made the remark that I am not a lawyer, and I know that, I am very aware of that. But I have represented myself pro se in two cases against lawyers, and won when I was given a chance. And there is, I don't know the law, but there is existing law that pro se people should be given a fair chance. And I forget the terminology. There are two citations in the record, and I believe I have cited that. And I would like to make the record part of the record. And pro se people should be taken seriously. Not letting me file my motion, my written motion in Limine prior to trial to prohibit certain, certain, things, as stated in my motion. I felt, I had written the Motion, and I felt that it would have been much better explained had I had a chance to file it pro se, in writing as opposed to verbally.



And at the pretrial motion for discovery, Your Honor had told me that the case, after counsel had made a remark about the case, and I didn't get the right, because Your Honor said at that point that, You didn't want to hear that then. But Counsel had already made a remark. And Your Honor made the statement that it was more, it was like a tough piece of meat, and the more you chewed on it, the harder it would get, and that the State of Louisiana was broke. And I felt that prejudicial, Your Honor. I did not say anything at the time because I did not want to be discourteous. And I thought it was just maybe something in passing. But in view of the way the trial, what has happened here, I feel that, that my due process rights have been violated before the Jury. And I say that with the utmost respect. I am extremely sorry to have to say that."

Court: "Anything else, Ms.Benson?"

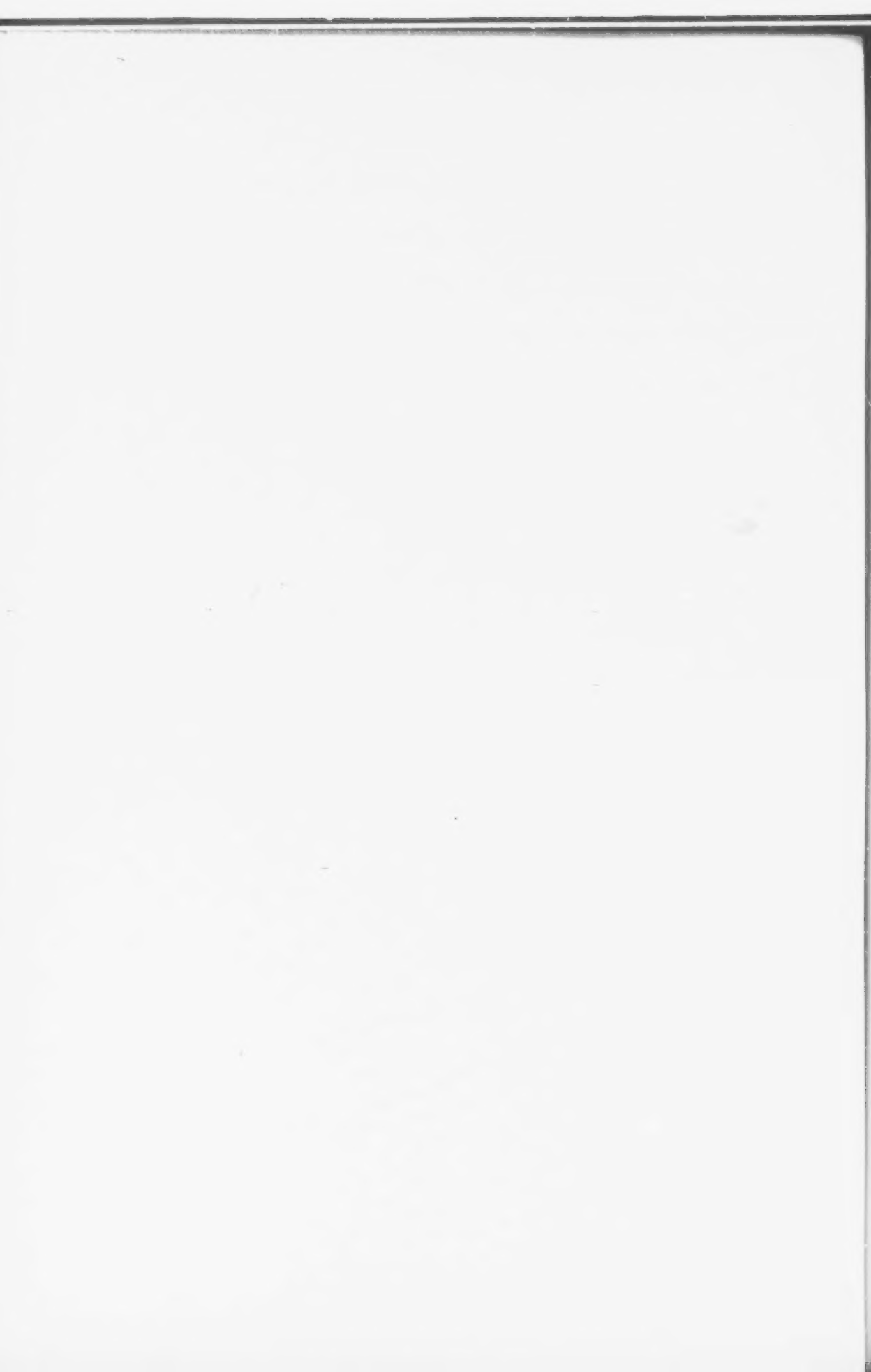
Ms.Benson: "There is, Your Honor, the, I don't know that this is an issue at this point, But

I feel that if there were an appeal, I would want to appeal the dismissal as to the state of Louisiana, and the supervisors. But I am not arguing about that. Your Honor may well be right. But I still feel there is existing law that supervisors can be named at times. So for whatever it is worth, I just mention that. And that's it."

The Court: "Anything else, please, Ma'am?"

Ms. Benson: "No, Your Honor."

The Court: "Mr. Lorenzi, do you wish to reply?"



Testimony of Joseph L. Benson TR 367-71

Mr. Joseph L. Benson, called as a witness by Plaintiff for the purpose of giving evidence, being first duly sworn, testified as follows: Direct Examination by Ms. Benson:

Q. "Mr. Benson, please state your name and address."

A. "My name is Joseph L. Benson. My address is 6432 Montrose Street, Alexandria, Va. 22312."

Q. "What is your relationship to the plaintiff, Louella Benson?"

A. "I am the husband of the plaintiff, since May 20th, 1976."

Q. "What is your education and occupation?"

A. "I hold three degrees from the University of Texas. Two of the degrees are graduate degrees in engineering and economics. I am a semi-retired consultant in the public utilities field, mainly interstate natural gas pipeline business."

Q. "Was your first wife deceased prior to the time you met Louella Benson?"

A. "Yes, she was."

Q. "Does Louella Benson do your office work?"

A. "Yes. Louella Benson is my administrative assistant secretary and bookkeeper."

Q. "Do you find her to be capable?"

A. "She is very capable, dependable and loyal."

Q. "Mr. Benson, during the time you have been married to Ms. Benson, since you have known her, have you found her to be, to be an open person, or would you describe her?"

A. "She is an open, loving, caring wife."

Q. "Have you had an opportunity to observe Louella Benson's driving?"

A. "Yes, I have."

Q. "Is she a careful driver?"

A. "She is a very careful driver, a safe driver."

Q. "How long have you observed her driving?"

A. "I have observed her driving ever since we have been married."

Q. "Is she in the habit of looking behind her before crossing lanes?"

A. "Yes, she is."

Q. "Have you ever seen Ms.Benson go too slow?"

A. "No."

Q. "Have you ever seen her weaving, or hugging the adjoining lane?"

A. "No, I have not."

Q. "Have you ever seen her cross over? Have you ever seen her--well, you have answered that. Have you ever seen her do anything crazy, like run into the road, or anything irrational like that?"

A. "No, I have not."

Q. "Does Ms.Benson drive over the Bay Bridge in Maryland?"

A. "Yes. We have driven over the Bay Bridge in Maryland several times."

Q. "Have you ever been a passenger in the car when Ms.Benson drove over the Lake Charge Bridge?"

A. "Yes, I have."

Q. "Did you observe any weaving, or anything unusual, or driving too, slow?"

A. "No, I did not."

Q. "Is the Bay Bridge in Maryland higher than the Lake Charles Bridge?"

A. "Yes, it is. It is a very high bridge."

Q. "The weekend of May 4th, 1984, Mr. Benson where were you?"

A. "We left together from Washington to Houston, Texas. I went to visit my relatives and you went to take care of your farm problems. And we had planned to return together from Houston to Washington."

Q. "Did Ms. Benson join you in Houston on May the 6th, on Sunday, May 6th, 1984. to return to Virginia?"

A. "Yes, she did."

Q. "Did you observe the effects of the incident of May 5th, 1984, on Ms. Benson?"

A. "Yes. Ms. Benson was very distressed. And she showed me the bruises on her body."

Q. "Did you observe any after affects of that, Mr. Benson?"

A. "Yes. For quite sometime after that. She is very concerned when she hears a siren,

or any other signs of police activity in the nearby premises. She has suffered some nightmares. And it has taken her quite sometime to get over the experience of the problem we are talking about in this case."

Q. "Did you accompany your wife to Lake Charles on September the 19th, 1984, for the trial date that had been set in Sulphur?"

A. "I did."

Q. "Did you accompany her to the offices of Maurice Tynes?"

A. "Yes, I did."

Q. "And did you and Ms. Benson drive from Lake Charles to Sulphur?"

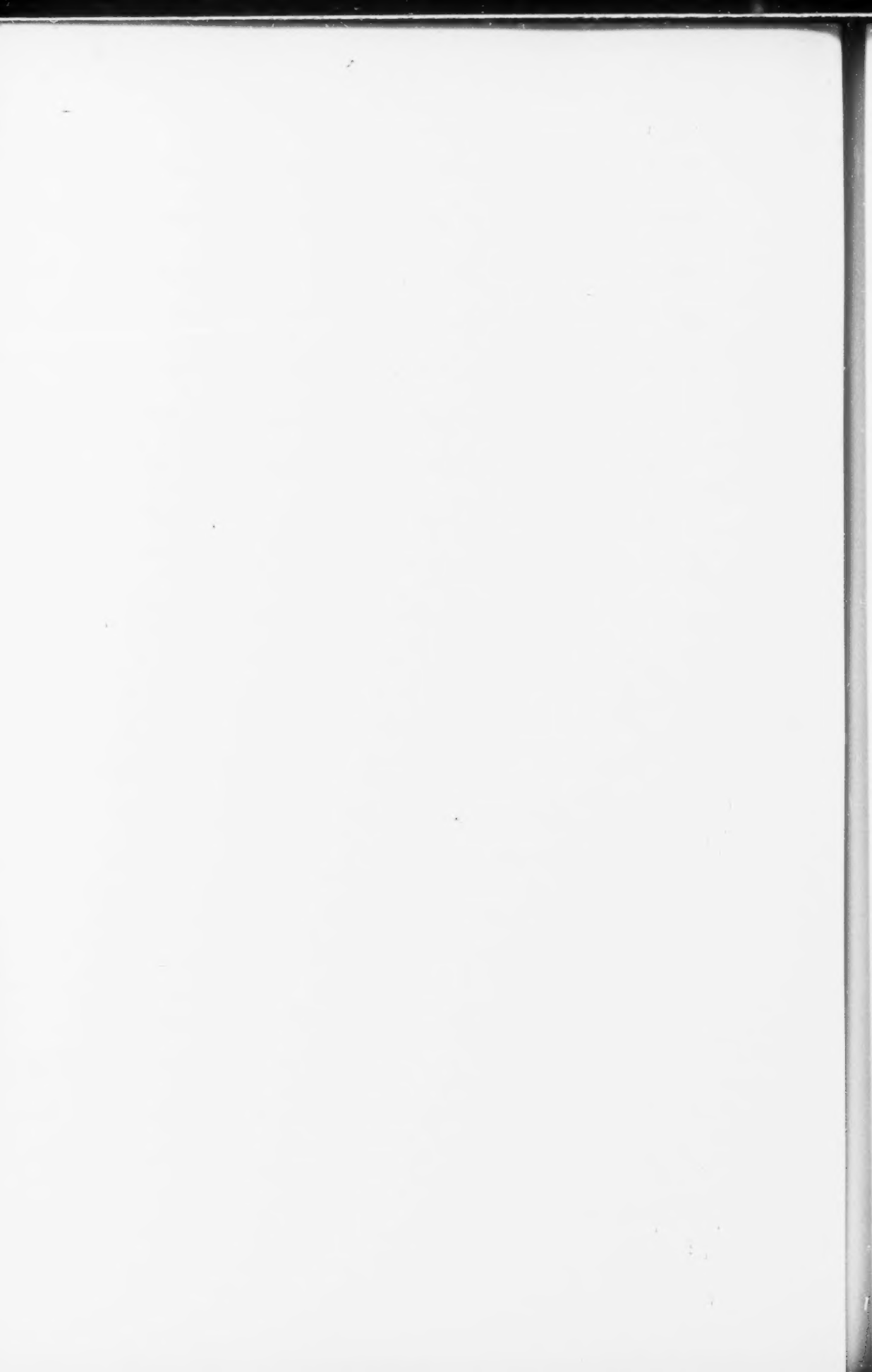
A. "Yes, we did."

Q. "Did Mr. Tynes meet you two there at the Courthouse?"

A. "Yes. He arrived sometime after we got there."

Q. "Do you recall if, do you recall if the prosecutor, Mr. Ware, called your wife in the courthouse?"

A. "Yes, he did."



Q. "Do you remember about how long he talked to her?"

A. "It was only about a minute."

Q. "And did you, were you with Ms. Benson when Maurice Tynes talked to her on May the 19th, 1984, at the courthouse in Sulphur, that same day after the prosecutor talked to your wife?"

A. "I am not sure of the date."

Q. "It was, I am sorry, September 19th, 1984."

A. "Yes."

Q. "And did Mr. Tynes also inform your wife that the charges had been dismissed for lack of evidence?"

A. "Yes, he did."

Ms. Benson: "I have no further questions."



Testimony of Louella F. Benson TR 76-7
2/88 before Judge Veron

"September 19th, 1984, on State trials, at number 3338-4, State versus Louella Benson, on 9-1984, in quotes: Improper use of lane, resisting an officer, disturbing the peace, all three charges dismissed outright, as per Assistant D.A. Ron Ware. I would like to enter this. And that was the charges that I had been introducing and entering. Unknowingly to me, before 1987, Defendant Hoffpauier, I learned in 1987, when he came in the act, he made , at some point after he was in the act, he made a recording. But I did not know he had a recording then, and I didn't know it back before 1987. And the part where the incident occurred, when there was only Officer Odum and myself, is not on there at all. When I was scared to death from the beginning and provoked, that's not on there at all. And the part where Officer Hoffpauier First came on the act on the copy I have, it was given, it was a very poor copy, but when he came in, for example, he had asked me if I



had drugs or weapons, or if I was drinking. And on the copy that I have, that's not on there. And it's a very poor copy, and it's blurred. So I feel it is very self-serving and very--"

Mr.Lorenzi: "Object, Your Honor, Again, this is an argument to the Jury."

The Court: "Maintained."

Ms.Benson: "When we--on September 19, 1984, when my husband and I came in from Virginia for the trial, this was the second or third trip I had made again since the incident. I had a lawyer at the time. And we drove in to Sulphur at the courthouse. And we were sitting in a courtroom, not as large as this one, when the prosecutor, Ron Ware, called me and told me, I had never met him, I had never talked to Mr.Ware, I had never discussed the case at all. Mr.Ware was not known to me, the prosecutor. He called me and told me that the charges had all been dismissed, there would be no trial, and I had a clean record, that they had second thoughts. And I simply listened. I was



delighted that the charges had been dropped because they should not have been--I am sorry if I am not supposed to say that. And it was a very, very brief conversation. And then my husband, my husband and I talked to my lawyer who informed me that the charges had been dismissed and that they didn't have a case for lack of evidence."

Mr. Lorenzi: "Objection, Your Honor. It's hearsay, apparently, just saying what her lawyer told her that Mr. Ware is supposed to have said."

The Court: "Maintained. Ladies and Gentlemen of the Jury, you are to disregard the witness' comment about what her lawyer told her as if you had not heard it in this courtroom. Thank you. You may proceed."

Ms. Benson: "and I decided afterwards that I should file suit because there is serious constitutional..."

A-132

"6432 Montrose Street
Alexandria, Va. 22312

October 18, 1984

Mr. Ronald F. Ware
Assistant District Attorney
State of Louisiana
City of Sulphur
Parish of Calcasieu, La. 70664

Re: Arrest by State Troopers while
driving in Sulphur-L.C. area on
May 5, 1984.

Dear Mr. Ware:

You will recall you told me on Sept. 19, 1984 that the State Police had second thoughts and that all the charges against me were dropped and that I had a clean record after I reported at the Courthouse-and you told me no trial would be held. My husband and I had made another special trip for the trial.

In view of a recent report in the newspaper concerning arrest records in general which get in computers etc., would you be kind enough to write me and verify the above in writing.

Also, I am enclosing a \$10.00 check and a notarized authorization release for



disclosure to me of any information or reports which are in your files or that of the Sulphur-Lake Charles State Troopers.

This request is made under any applicable disclosure or privacy laws and includes information in computers.

I would appreciate your assistance in processing this request at your earliest convenience."

Sincerely,

Encl.

s/ Louella F. Benson "

"Dear Mrs. Benson

Please be advised that there are no charges pending against you in Calcasieu Parish. Also be advised that I am not at liberty to forward to you police reports, files, etc. These items are only for law enforcement use only. You must obtain a Court order to get those records. Also please find enclosed your check for \$10.00.

s/ Ron Ware"

postmarked October 1984

Louella F. Benson's testimony TR 46-50

"and I decided that I would go on to Texas.

So I looked behind me and gave the signal.

I noticed that there were no cars. And I got in the left-hand lane. I was just about getting over.

I was getting off the bridge actually here in Lake Charles, Sulphur. And

there were no cars behind me. And I, without exception, when I cross a lane, I look behind me.

I don't only look in the mirror, I

look behind me and there were no cars. And I

drove on. And a little bit later, I heard a

siren. and I was sure that it was an ambulance,

that there was some kind of emergency.

You know how you have to pull over when you

hear a siren and let them go. So I gave the

signal, looked behind. I saw the flashing

lights. I gave the signal and I got back to

the right, and I got to the shoulder away

from where the traffic lane is, into the

shoulder and I parked. And the next thing I

knew, Def. Odum, Officer Odum, appeared at

the door of the car and he hollered at me."

"He shouted at me very loudly, to get out of the car. Well, I put the window down. And I was obviously, very frightened. I put the window down. And I told him that I had taken my shoes off. Your Honor, may I leave the stand for a moment to get my shoe? It's an exhibit." underscore added.

The Court: "Yes, Ma'am."

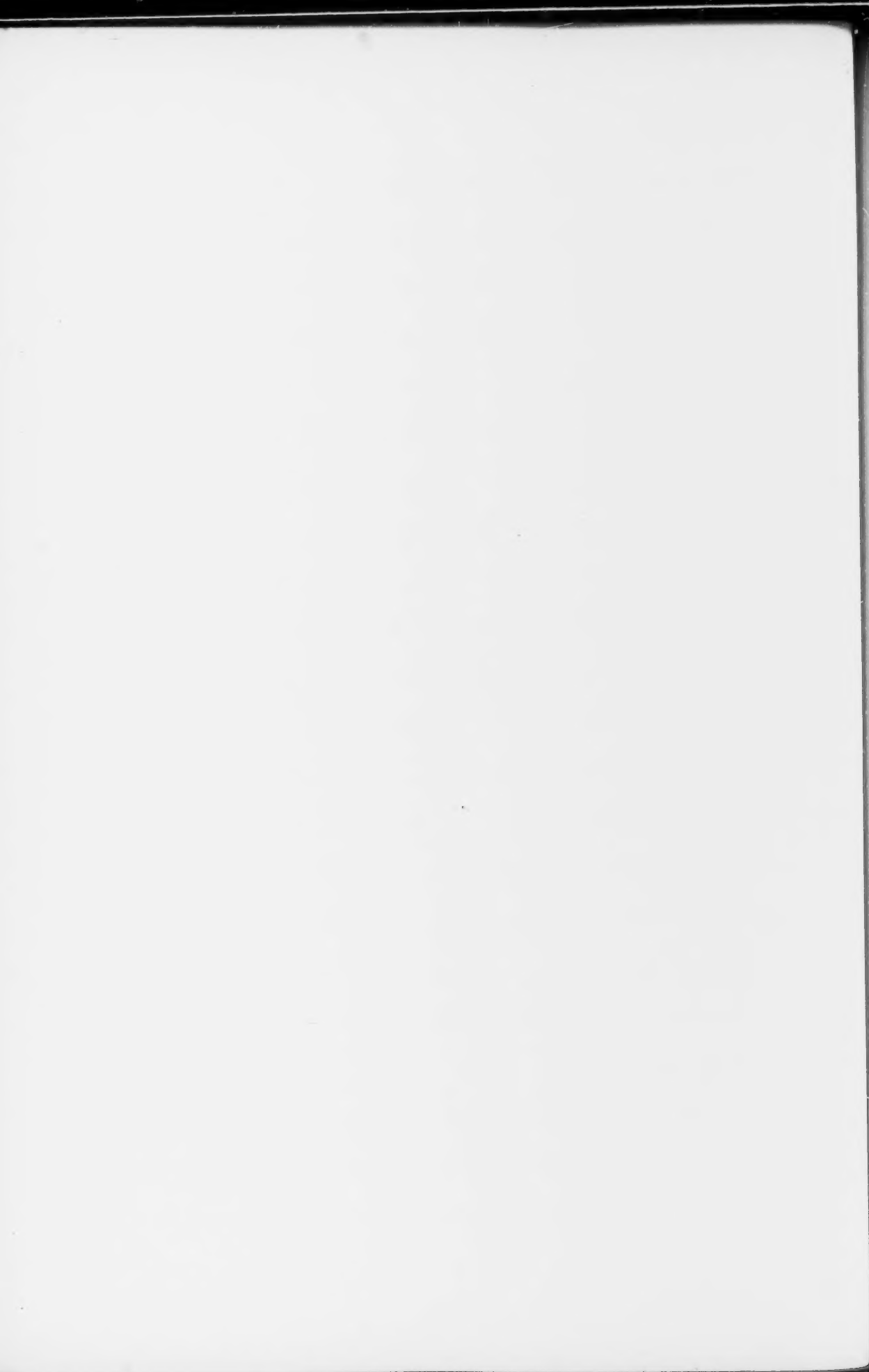
Ms. Benson: "Thank you. Now, I did not clean the shoe deliberately, because I had worn it out on the farm, and they were very uncomfortable. I have bunions on my feet, and so I had slipped them off. And as you can tell, to put this shoe back on, you can't just slip it on. You have to use your hands."

The Court: "Now, wait, Ms. Benson. Let me explain something to you. You cannot exhibit to the Jury an exhibit until it is received in evidence."

Ms. Benson: " Oh, I am sorry, Your Honor."

The Court: "I know you don't understand that, but I have to tell you."(scolding-rude)

Ms. Benson: "I will make this Exh. 1, if I



may, and enter it."

The Court: "Well, offer it. You don't enter it, you offer it. I am the one that enters it."

Ms. Benson: "I am very sorry. I would like to introduce plaintiff's Exhibit 1, the right-hand-hand shoe that I wore on May the 5th, 1984, the day of the incident, and it's Plaintiff's Exhibit 1."

The Court: "And objection, Mr. Lorenzi?"

Mr. Lorenzi: "I am not going to object, Your Honor."

The Court: "Let the Offering be received.

(Whereupon said shoe Marked P-1 for identification was received into evidence and filed with the Clerk of Court.)"

The Court: "Now, you may talk to the Jury about it if you want, Ma'am."

Ms. Benson: "As I said earlier, I deliberately did not clean the shoe because I had worn it out on the farm. And I had slipped them off because they were uncomfortable. I was driving without shoes. And when Officer Odum appeared at the door and shouted



at me to get out of the car, I put the window down. I had the window down, and I told him I would get out of the car, but I had to put my shoes back on. And he saw what I was doing, because he opened the door of the car. So I am entering this to show you that I couldn't just slip the shoe back on. You have to use your hands the way those straps are made."

The Court: "Just leave it right there. We will get it, Ma'am."

Ms. Benson: "Yes. and I did. And then he asked me for my license. I gave him my license, which had my name, and I pointed out that that's where I lived, which is the same address where I live now. It is 6432 Montrose. And I got out of the car and he had me walk on the side of the car. He told me that I was going too slow, and that he was looking for drugs and weapons. And I told him that I had never gone near drugs, and I never owned a weapon. Then he asked me if I had anything to drink. And I told him, No, that I drink, actually, very little because I happen

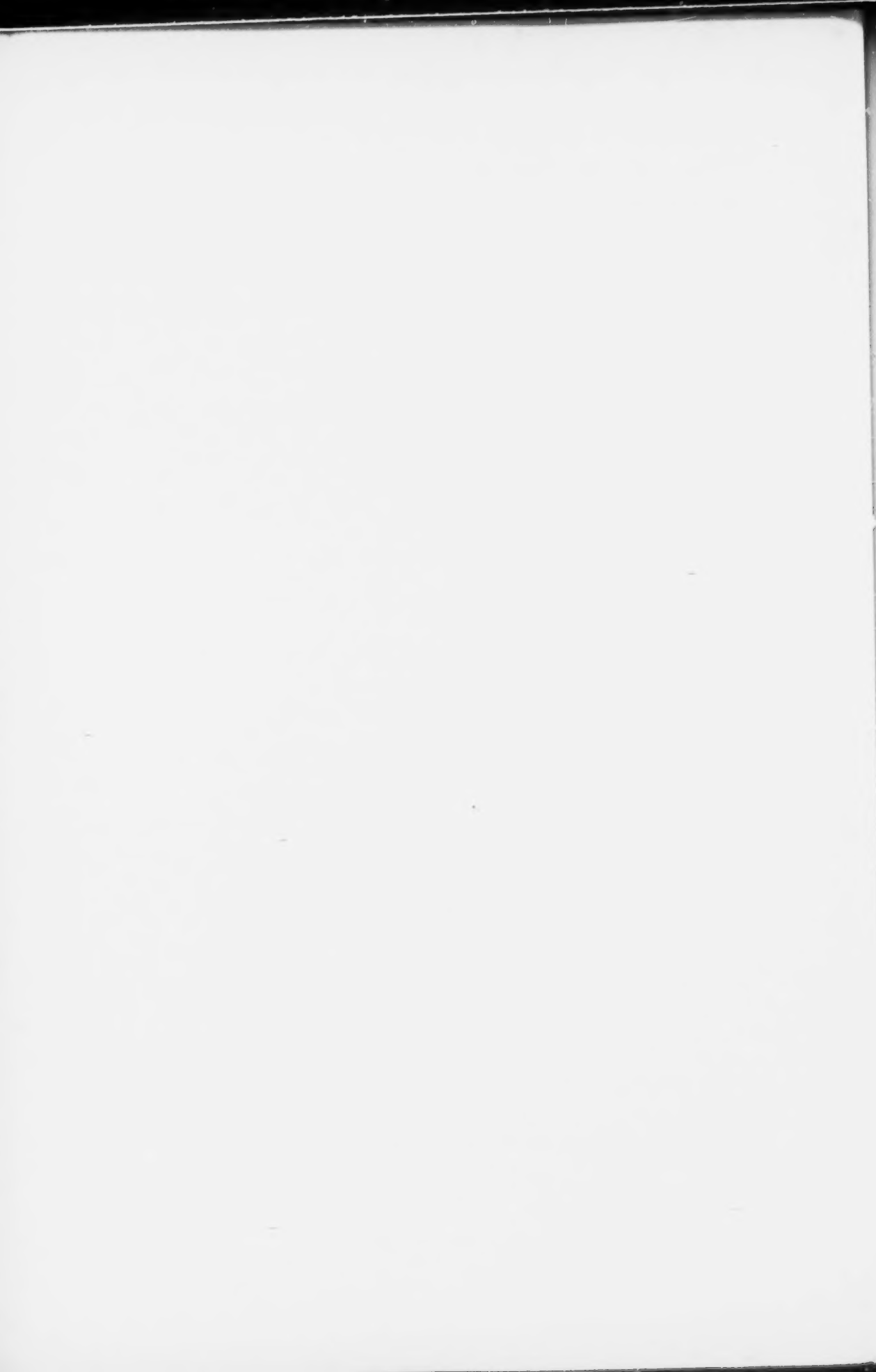


to have a heart condition. And then he had me walk alongside the car. The car was parked. I was obviously going towards Texas, which I think would be west, anyway, toward Texas. And I had parked the car in the, on the shoulder. And there was ample room there. He had me walk on the side of the car to see, I suppose, you know, if I could walk straight,

And I did. And then he asked me if he could search my car. And I told him, No, because I did not have drugs or weapons. And I did tell him that I had had a malt before leaving Lafayette, a vanilla malt. I still had the container in the front seat. And I showed him that. And he appeared to be unhappy because I would not let him search. I knew I didn't have any drugs or weapons, and that I was not drinking. And I asked him if he had, if he felt that I had committed a violation, to give me a citation, and he would not do that. He said that he would have to wait." underscore added.



"Well, it turned out that later, Def. Hoffpauier arrived on the scene. And Mr. Hoffpauier was laughing. I was very much afraid, because he had shouted at me, Officer Odum had shouted and would not give me a citation. And then Officer Hoffpauier arrives on the scene laughing, and that frightened me even more. And he asked me if I had drugs or weapons, or if I had been drinking. And I told him, No, I had not. And then I asked, I asked again for a citation, and they wouldn't give me any. And I cannot explain just how afraid I was. They--while he had told me originally that I was going too slow, it turned out that the charge turned out to be improper use of a lane, that I was using the lane improperly. And then when I saw that there were two of them, and they still wouldn't give me a citation, I became very concerned about trying to get a witness. I didn't know what was happening. And I asked them again to give me the citation. And I asked them if they would allow me to call a



lawyer, and they said I couldn't do that at the time. And from the side of the street, from the side of the street, at no time did I go into the traffic lane where cars travel. At no time did I lean over the lane, from the shoulder of the lane. Well, I was desperate. I did yell for help. And Officer Hoffpauier was very brutal. He actually hurt me. He left bruises on my shoulder, and on my knee. And I slipped And then I told them that I would make a complaint, I would make a complaint about them because they were refusing to give me a ticket. And he said to go ahead. And, Your Honor, I hate to do this again, but at this point, I would like to leave the stand to get my pictures."

The Court: "You certainly may, Ma'am."

Ms. Benson: "Thank you. I would like to introduce plaintiff's Exhibit 2, the bruise on my arm which was taken May 8th, 1984, two days after the incident; and plaintiff Exhibit No. 3 the bruise on my knee."

The Court: "Ma'am, please offer your exhibits.."



Testimony by Defendant Officer Odum TR 506-9

The Court: "Ms. Benson, proceed further"

By Ms. Benson:

Q. "Officer Odum, you testified yesterday that the shoulder where I was stopped was ten feet?"

A. "I said approximately ten feet."

Q. "Did you ever measure it?"

A. "I have measured it on a number of occasions, not particularly at that particular location."

Q. "You have never measured?"

A. "With a tape? No."

Q. "Thank you."

A. "Not at that location."

Q. "Officer Odum, in view of your bizarre behavior the night of the incident, your screaming and your distorting what really happened, may I ask you, are you now or have you ever taken drugs of any kind, or were you taking drugs then, or were you under the influence of alcohol?"

Mr. Lorenzi: "Your Honor, I object to Ms.

Benson harassing of the witness, irrelevant to the matter before the Court."

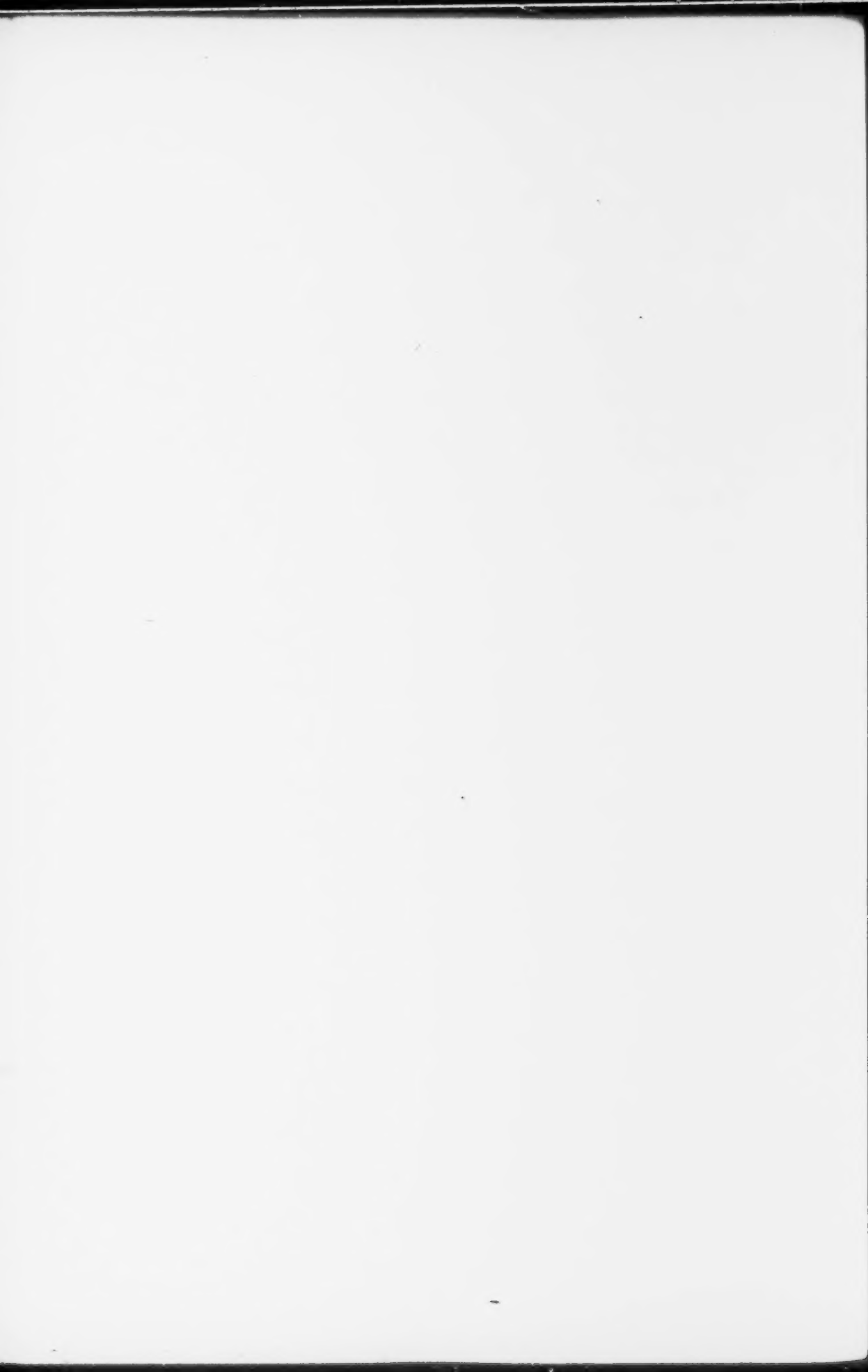
Ms. Benson: "Your Honor, may I say something?"

The Court: "You certainly may, Ma'am."

Ms. Benson: "Is counsel telling us that it is irrelevant if a police trooper is under the influence of alcohol or drugs on the highway following a person."

The Court: "No, no, no. I think what he is primarily concerned with, Ma'am is I think your lead-in comments to the question. In other words, you made conclusions about this officer's bizarre behavior, and about his screaming, and I think that ~~it~~ here the problem is. But I don't have any problem. The Jury has heard his testimony. So, Mr. Lorenzi I am going to overrule it. But the Jury has heard his testimony as to what happened that night, and they have heard yours. And it's going to be a question of who they believe. So, but you can ask the question. Do you remember the question, officer?"

The witness: "I would like it repeated."



The Court: "I apologize, you are not an officer now."

By Ms. Benson:

Q. "Officer Odum, in view of your bizarre behavior the night that you arrested me, the fact that you were shouting, the fact that you refused to give me a citation, and your outright misrepresentations and distortions, have you, were you then, are you now under the influence of any drugs or alcohol?"

A. "No, Ma'am."

Q. "Have you ever taken any drugs?"

A. "Well--"

Q. "Any--"

A. "I am taking an antihypertensive medication at this time, Yes."

Q. "You are?"

A. "and an aspirin."

Q. "Does that affect your driving?"

A. "No, ma'am."

Q. "Officer Odum I believe you testified on October 9th, 1987, that no cars tooted at me. You were not aware of anybody tooting at me, or you didn't get any license numbers?"



A. "I don't recall it. No."

Q. "Officer Odum did you, at any time, discuss the case after the incident with Officers Hoffpauier and Fox?"

A. "Oh, yes, ma'am."

Q. "So you all got together and talked about it?"

A. "Yes, Ma'am."

Q. "Officer Odum, the night of the incident, did you have a gun?"

A. "I certainly did."

Q. "I believe you testified that you opened the car door, my car door?"

A. "That's correct."

Q. "And you also testified at one point yesterday that I opened the window just a couple of inches?"

A. "I believe that's correct. Yes."

Q. "What if I had had any--"

Mr. Lorenzi: "Your Honor, I object, this is entirely repetitious."

The Court: "Well, Let her--"

Ms. Benson: "I want to make a point."



The Court: "Let her finish her question, Mr. Lorenzi, and then don't answer, sir, and then I will hear your objection."

Ms.Benson: "Your Honor, My point--"

The Court: "No, No."

Ms.Benson: "Okay."

The Court: "Please, ma'am, Ms.Benson, I have simply instructed him not to object, and let you finish your question. Now, my instructions to you, you finish your question, and then I will determine whether his objection is good or not." By Ms. Benson:

Q. "Officer Odum, had I, had I had any intentions of not getting out of the car, or anything of that sort, had I been one of those violators, would I not have locked the door?"

A. "Ma'am, I have no idea what you would have done."

Q. "In other words, what would be the logic of leaving the door unlocked and opening the window just two inches?"

A. "I have no idea, ma'am."



A-1.46

Hand-Carried Complaint made by Louella F.

Benson after arrest

"May 6, 1984

3:15 a.m.

Chief of State Troopers
Lake Charles, La.

Dear Sir:

Re: Nos. 253 James R. Odum &
Officer Hoffpauier (sp.?)

Wish to make a citizen's complaint against
the two above officers for police intimidation,
harrassment, brutality and false arrest,
as well as invading my privacy, going through
my personal possessions and confidential papers,
handcuffing me and leaving me in the car without
any ventilation and leaving me outside for about 45 mins.

275 1358

s/ Louella F. Benson

275 1360

6432 Montrose Street

275 2641

Alexandria, Va. 22312 "

Received / s/ Sgt. J.R.Cdum 233
LSP Troop D

hand-carried by
LEB on

A-147

" May 6, 1984

Chief, State Troopers
Lake Charles, La.

Since the alledged violations issued to me early this a.m. are shown under Other Violation, should the codes 14:103; 14:108; 32:72 also shown mean anything different, please advise me personally in writing of the meaning today.

s/ Louella F. Benson
6432 Montrose Street
Alexandria, Va. 22312

11: a.m.

Was not able to obtain my car early this morning by calling the number you gave me nor by going by there. Can you help me? I have no clothes, no glasses and I have to make a plane out of town today."

Received ELK 5/6/84



Testimony by Louella F. Benson Tr. 55-76

(Whereupon said photographs marked P-2, P-3 and P-4 for identification were received into evidence and filed with the Clerk of Court.)

The Court: "Now, you may tell the Jury all about the photographs."

Ms. Benson: "Okay. Well, I think I described, I mentioned earlier that Officer Hoffpauier was brutal, and that he pushed me without cause. And he grabbed me, and his grab was very intense. There was no reason for that.

At no time was I in the path of cars. And the bruise on the knee happened when I slipped, at that time when he was manhandling me. And then the bruise on the hand, he put handcuffs around me at one point. And at one point, well, I told him he was hurting me. I told him, I asked him to not manhandle me."

The problem with, when Officer Hoffpauier came into the act, after he was brutal, I told him that I would file a complaint against him. And it was then that he decided to arrest me. underscore added.



In fact, it was after that that he made the statement that they would take me to jail. So when I refused to let them search, it became improper use of lane. After I told them that I would make a complaint against them, it became, they decided to arrest me. Now, as I said, at the time I was forty-nine yrs. old. And I had never had a ticket. I have driven a car since I was eighteen years old, and I had never been stopped. I had never been stopped. I had had parking tickets, but no moving violations when driving a car. I would like to enter at this point--I am sorry, I would like to introduce at this point, plaintiff Exhibit Number 10, which is my, a copy of my driver's license."

Mr. Lorenzi: "No objection, Your Honor."

The Court: "Let plaintiff exhibit No. 5 be received." (Whereupon said copy of driver's license marked P-5 for identification was received into evidence and filed with the Clerk of Court.)



Ms.Benson: "My driver's license shows that I -am Louella F. Benson. My social security number, and that my address is 6432 Montrose Street, Alexandria, Virginia, 22312. My date of birth, that I am living in Fairfax County, Virginia. The mailing address is Alexandria, but we live in Fairfax County. And it is a little confusing. There are people in--I understand that this was done because there are people who want the Alexandria address."

Mr.Lorenzi: "Your Honor, I have to object to an explanation as to what the State of Virginia thinks in terms of why."

The Court: "Maintained. That is irrelevant and immaterial to your claim, whether some people want to be living in Alexandria as opposed to Fairfax, and so forth, and so on, ma'am."

Ms. Benson: "Yes, Your Honor. As I was testifying, I begged the two officers to give me a citation, if they felt I had committed a violation, to please give me a citation, and to write it and let me go on my way. And they refused. And Officer Hoffpauier also wanted to



search my car and my possessions. And they left me waiting there. Time was going by. And it had been sometime. It was late at night. And it was foggy and damp, and I have a mild arthritic condition. I did not like to stand outside. And they told me I would have to wait. And they got another Officer in the act. And we waited until he arrived. And this was defendant Fox who they, apparently, brought in to conduct the search. And by the time Defendant Fox came into the act, they had me in the back seat of the car with handcuffs on. Now, I had--apparently, they were waiting until he would get there, to conduct the search. Their only exception was the fact that Officer Odum saw the malt container, and Officer Hoffpauier, I had a, I had a pocket that was obvious and he did look at my pocket. And he turned it around.*/ You know, that frightened me more than anything else. I was not sure what was happening then. But what he was doing was searching." underscore added. */ he did look in my pocket.



"And it was during the time that he was man-handling me. So he put me in the back seat of his car. And I did ask several times, also, to please let me call a lawyer. There were two of the, and if there was a phone across the street, and of course, they did not, or could not let me do that. Officer Fox finally arrived. And I was asked if I had any valuables. I told them that I had a briefcase with some personal papers. In fact, I had written a lawyer, corresponded with a lawyer, and then some papers pertaining to other matters, personal papers. They were private papers. And they were not anything that they should have an interest in, or have a reason to read. And I told them, too, that I, of course, had my suitcase and my purse. And when they asked me later if I had valuables, what valuables I had, I told them that I had a diamond, some diamonds my husband had given me in my little purse inside my suitcase. And that was a source of ridicule from Lt. Hoffpauier!" underscore added. */ there was a phone across the street; if should come out-sound tapes destroyed



And then I was handcuffed. But Defendant Fox, I told him, they wanted to know where this little purse was. And I explained, and at first, I don't think he could find it. And there was somewhat of a little quarrel I thought there between the officers, between the defendants Hoffpauier and Fox. But then Defendant Fox found the jewelry, and Def. Hoffpauier shouted at him to bring him the jewelry. And Defendant Hoffpauier had a flashlight, and he held the flashlight, and Def. Fox read my correspondence. And they went through everything I had. I had a letter in the front seat, and then in the briefcase I had the papers I described earlier. And then they went through the briefcase, and they went through my suitcase, and everything I had. And they did not find any drugs or weapons. And I think the facts would show that they admitted to that. And that I was not drinking. But they still insisted upon arresting me. They finally took me to the Sulphur jail. And when we arrived there, they left me in the car for a while

without, with no oxygen, with all the windows up And I was handcuffed. And then they took me in, and they had me processed, fingerprinted and photographed. And at that time, they allowed me to call a lawyer. And then I called a niece who bailed me out, and I left the jail at that time. When I left the jail, and I think it was around 2:00 o'clock, maybe a little later in the morning. And they then gave me the citations which were a charge of improper use of lane. I am sorry. Your Honor, I would like to introduce at this point, Plaintiff's Exhibit Number 6, Plaintiff Exhibits Number 6, 7 and 8."

The Court: " Mr. Lorenzi, would you look to see whether you have any objection, Sir?"

Mr.Lorenzi: "Yes, Your Honor. I do not, Your Honor."

The Court: "Ordered received."

(Whereupon said copies of citations marked P-6, P-7 and P-8 for identification were received into evidence and filed with the Clerk of Court.)



Ms.Benson: "Plaintiff's Exhibit Number 6, which they gave me around 2:00 o'clock in the morning, on the morning of May 6, 1984, is citation number 275138, signed by Officer James Odum for improper use of lane. And on this ticket he cites the speed I was going as twenty-nine miles an hour. It's dated May 5, 1984, at 11:35 p.m. And it says that I was incarcerated. And I learned recently that when they give you a citation, an Officer gives you a citation like this, it is actually under oath. It is under his oath that he is, in fact, charging you with this charge. They also, at that time at the same time, gave me another citation which is plaintiff Exhibit Number 7, for disturbing the peace, which is dated May 5, 1984, Number 2751360, signed by Officer Odum. And the number is 14, of the statute, was 14:103. And at the same time, they gave me another citation, Number 2752641, dated May 5, 1984. I am sorry, Number 7, the time on Number 7 was 11:40, five minutes after, after the



first citation. And the third citation they gave me at 11:40, on May 5th, 1984--No, the time on the citation is 11:40, but I want to make clear that I didn't receive those citations until around 2:00 o'clock in the morning. It's signed by Officer Odum. And it is for resisting an Officer. And the number of it is 2752641, and the Statute Number is 14:108. And it is Plaintiff's Exhibit Number 8. While I am on that subject, I think it would be easier for me to get into the copies of those citations, the same citations that I obtained from the Judge, from a Court order, on Oct. 7, 1987, after I filed a motion for discovery, and I obtained a Court order. And one of the things, some of the things they gave me was, were copies of the charges that they had charged me with. And it's the same ticket numbers. In other words it's supposed to be the same charges, but there are inconsistencies, that it is very important that I point out to you. For example--"

Mr. Lorenzi: "Objection, Your Honor. The witness is, apparently, prepared to read from a document which is not in evidence."



Mrs.Benson: "I am sorry. I did it again...I would like to introduce Plaintiff's Exhibits 8, 9 and 10."

The Clerk: "She has an eight. You have an eight, ma'am. The third citation was number eight."

Ms.Benson: "I am sorry. Number 9, 10 and 11."

The Court: "Any objection, Jr. Lorenzi?"

Mr. Lorenzi: "I haven't checked, Judge. No objection, Your Honor."

The Court: "Ordered received. You may proceed." (Whereupon said copies of citations marked P-9, P-10 and P-11 for identification were received into evidence and filed with the Clerk of Court.)

Ms. Benson: "Exhibit Number 9 is the same ticket number as the first citation I read to you, 2751358. And it is the same date, May 5, 1984. And the time on there is 11:35 p.m. But it was actually given to me in the A.M. of the next day. And it was for improper use of lane. And it shows twenty-nine miles per hour. Instead of the code being



cited, 32.72 is on the similar one given to me earlier. The code on this one is 32.79 of the violation they were accusing me of. In addition to that, when you examine the citations on the similar one that they had given me in 1984, for improper use of lane, there was nothing at the bottom, other than incarcerated. But at the bottom of the one they gave me in 1987, I notice Officer Odum checked, almost caused an accident, and that was not on the citation that had been given to me earlier. And at no time did I almost cause an accident. No car tooted at me, and no car came near me. That is most untrue. And further evidence of that is the fact that when I reported for trial all the charges were dropped or dismissed, and there was no trial. So my position is that when an officer gives you a citation, it's supposed to be--

Mr. Lorenzi: "Objection, Your Honor."

The Court: "Maintained. That's not testimony Ma'am. That's argument." Why changes in '87?



Ms. Benson: "Okay. Your Honor. I am sorry. I will move on to Plaintiff's Exhibit 10, which is a duplicate of 2751364. And which is marked the same date, disturbing the peace, but it was not given to me before around 2:00 o'clock in the morning. And on this one, he shows the time of 11:45. In other words, the time was changed. On the similar ticket like this one, if you will notice when you examine it, on the similar ticket given to me in '84, the time was 11:40, and on this one the time was changed to 11:45. And this is important because of--

Mr. Lorenzi: "Again, your Honor, this is fixing to leave the realm of testimony, and she is going to argue something to the Jury."

Ms. Benson: "No, I will not."

The Court: "Thank you, Ma'am."

Ms. Benson: "I am sorry, Your Honor. Okay. I made that point. The time is changed on this one. And on Plaintiff's Exhibit Number 11, which is the duplicate of 2752641, the same date, May 5, '84. The time was also changed



on this one from 11:40 to 11:45, but not given to me before 2:00 o'clock in the morning at the jail, although I had requested it. And on this one the code was also changed. The code on this one is 14:108, and it states resisting an officer. On the, and not only the time was changed, but the code was changed on this one. underscore added.

And I would like to introduce, at this point, Plaintiff's Exhibit, Plaintiff's Exhibits Numbers 12, 13 and 14, which are copies of the bill of information written by the prosecutor on May 14, 1984."

Mr. Lorenzi: "I am not going to object, Your Honor."

The Court: "You have no objection?"

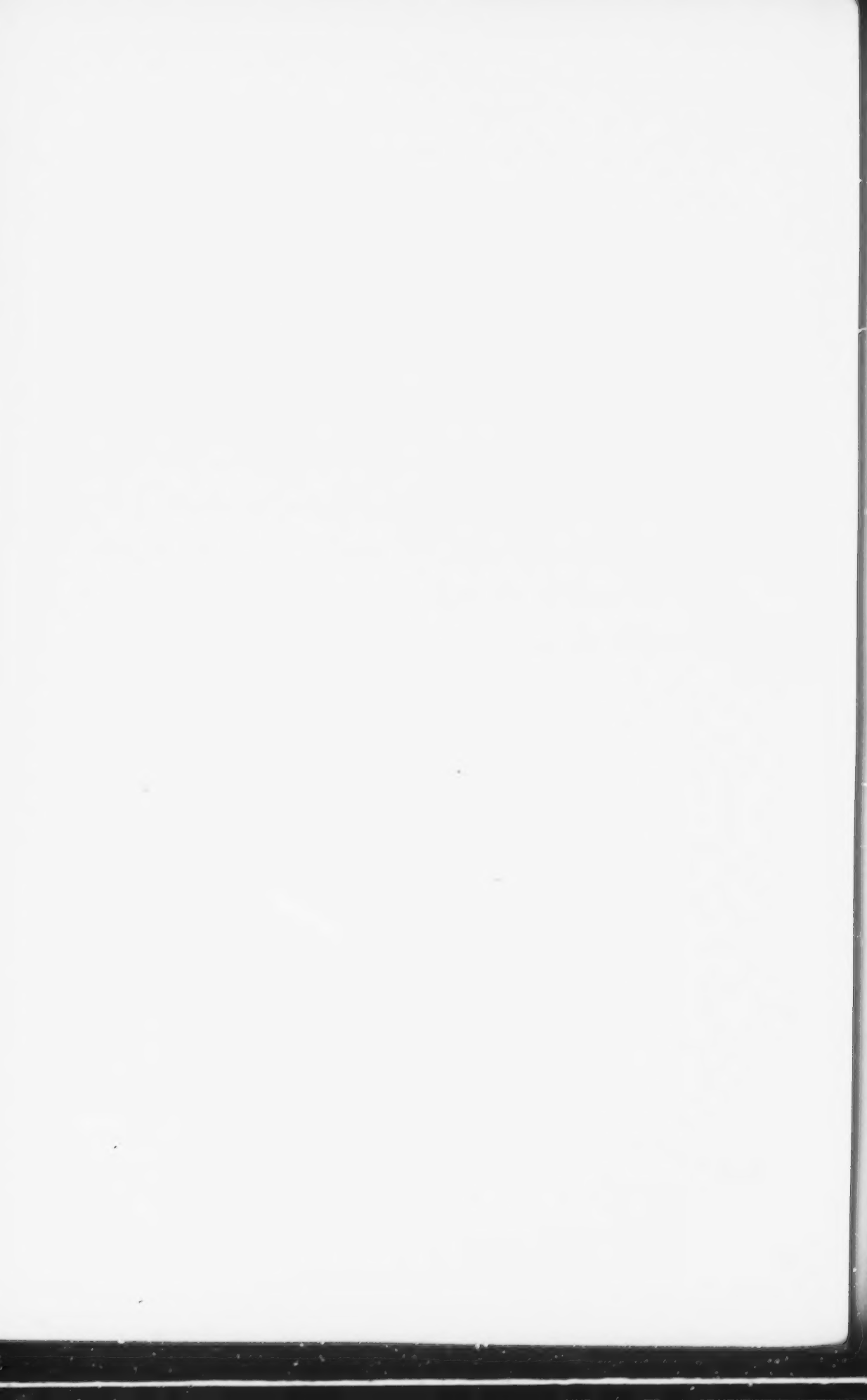
Mr. Lorenzi: "No Your Honor."

The Court: "You are offering 12, 13 and 14, Ma'am?"

Ms. Benson: "Yes, Your Honor."

The Court: "Ordered received."

(Whereupon said bills of information marked P-12, P-13 and P-14 for identification were



received into evidence and filed with the Clerk of Court.)

Ms. Benson: "The bill of information is supposed to support the citation that--"

Mr. Lorenzi: "Objection, Your Honor."

The Court: "Maintained."

Ms. Benson: "Okay. The Exhibit, the Plaintiff's Exhibit Number 12 shows the inconsistent code, from 32.79 to--"

Mr. Lorenzi: "Objection, Your Honor. The Witness at this point is attempting to tell the Jury what conclusions it is to draw from the exhibit."

The Court: "Maintained. Ma'am, Just say what the Exhibit shows, then in your closing argument to the Jury, that is when you argue whether there are inconsistencies, and all of your whole argument about what went on. But you are here just simply to testify as to facts."

Ms. Benson: "These are copies of a bill of information that was produced under Court Order on October 7th, I am sorry, Oct. the 9th, 1987. And it's signed by the prosecutor, underscore added

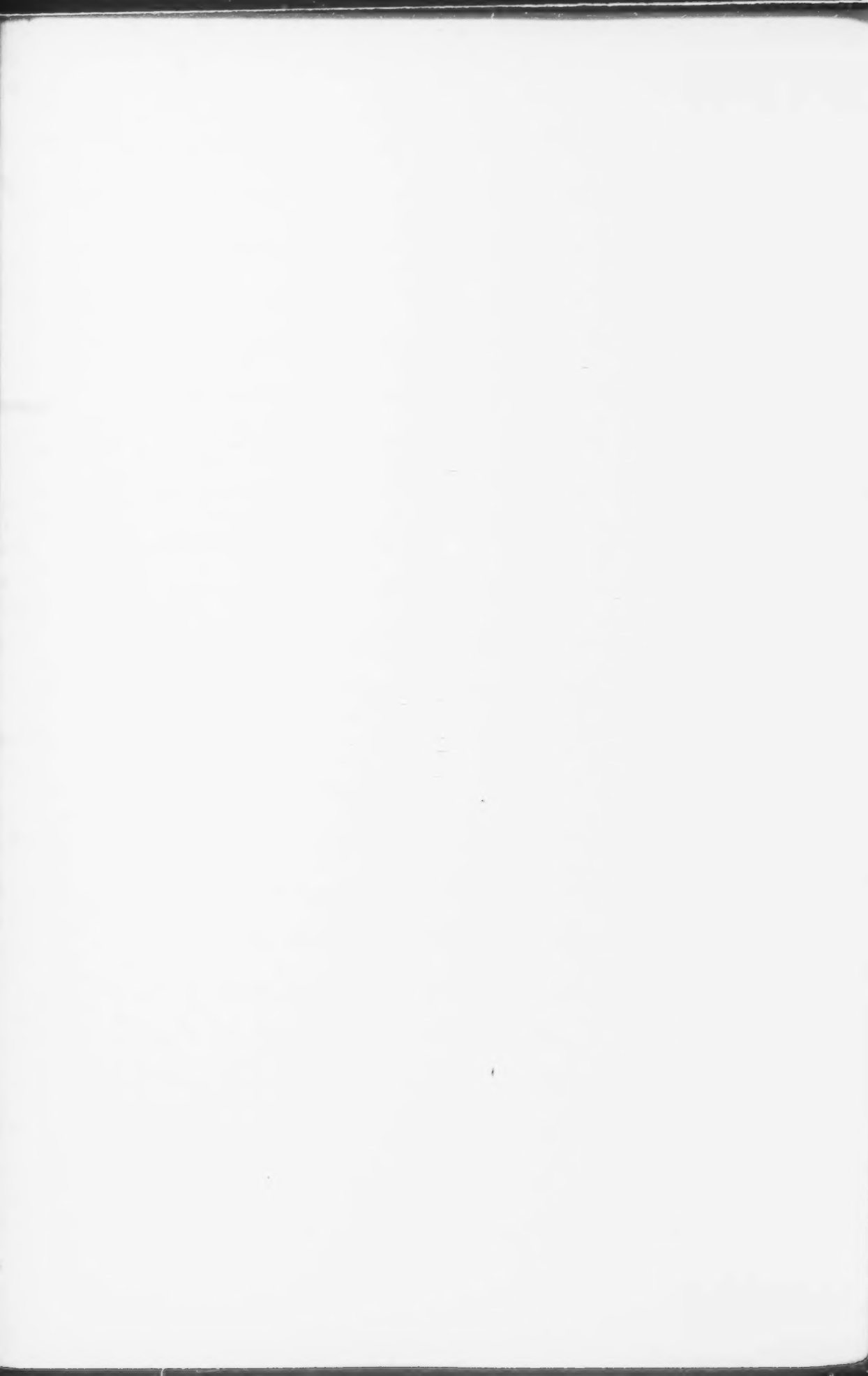


Ron Ware, who had dismissed all the charges on September 19th, 1984. And number 12 was for driving a motor vehicle on a roadway having two or more clearly marked lanes for traffic. And the code number is 32.79. And Plaintiff's Exhibit Number 13 is similar. And it's signed by the prosecutor, Ron Ware, and it was also dismissed on September 19, 1984. And it was, this is dated May 14, 1984, and the charges on here are for, did address officers with abusive language, to wit. It reads, sergeant R. Odum, Sergeant James R. Odum, who was lawfully in the street or public ditch on the date of 5 May, within the individual's presence and hearing, with the intent to derive, offend or annoy him, or to prevent him from pursuing his lawful business or duty, in violation of S.L.A. R.S. 14:104, Signed by the prosecutor, Ron Ware. (There is a mark here, I couldn't read it well.) And it's also dismissed. This differs from the citation I had been given in 1984.
underscore added.



because the other one is marked resisting an officer, 14:103. This one was abusive language. Plaintiff's Exhibit Number 14 is signed by the prosecutor: Ron Ware, at the time, dated, this one is dated May-June. I guess that is a mistake. But the others are on May 14th, so I guess that is supposed to be May 14, 1984, and it was for unlawfully, knowingly and intentionally obstruct an officer of the law, namely, Sergeant James Odum of Calcasieu Parish, Louisiana, by refusing to give his name and make his identify known to the arresting officer in violation of 14:106(c). Well, this was also dismissed on September 14th, Sept. 19th, 1984. But if I could refer to my Exhibit showing my driver's license, I had given him my driver's license with my name and address on it, so I was identified and he knew who I was. Now, at this point I would like to go back to when I stopped to enter the Exhibits. I was leaving the jail. My niece came in and bailed me out. And the, they told me that if I--"

Mr. Lorenzi: "Objection, Your Honor, hearsay."



Ms. Benson: "I am sorry. I was given the citations, and I was given a telephone number of the party who seized my car, my rented car. And I was given a telephone number and told that if I called this number I could get my car that morning. Well, I called the number and there was nobody there. And this was between 2:00 and 3:00 o'clock in the morning. And then my neice and I went by there and there was nobody there at the parking lot. It was at Dan's. And if I may, at this point, I would like to introduce Plaintiff's Exhibit Number 13, which is the receipt from Dan's.

Mr. Lorenzi: "Without objection."

The Court: "Ordered received."

(Whereupon said receipt marked P-15 for identification was received into evidence and filed with the Clerk of Court.)

Ms. Benson: "It's Plaintiff's Exhibit Number 15. and it's the bill I paid for sixty-nine dollars to obtain my car on May the 6th, 1984, from Mr. Dan, From Dan's Wrecker Service."



"At this point, I would like to introduce plaintiff's exhibits numbered 16, 17 and 18 which are copies of complaints I made to the troopers."

Mr. Lorenzi: "Permission to approach the witness, Your Honor?"

The Court: "Granted."

Ms. Benson: "That will be numbered according to when, the one commencing at 3:15 on May 6th of '84."

Mr. Lorenzi: "Your Honor, the defendants do object to each of these three exhibits as marked by the witness. These are her writings made out of Court and, therefore, I feel they are hearsay. And I am not aware of any exception under which they would be admissible, since the witness is here and able to testify."

The Court: "Did you serve copies of that on anyone, Ma'am?"

Ms. Benson: "Oh, Yes, Your Honor. Two of the citations, two of these exhibits were signed for by the officers, one by Defendant Odum and the other one by Officer ELK, both on



May 6th of '84, and the other one was mailed in after I returned to Virginia."

The Court: "Well, I think clearly the two that the officers signed for them, they should be admissible."

Mr. Lorenzi: "I didn't see a signature, Your Honor."

The Court: "Would you check and see?"

Mr. Lorenzi: "Yes, Sir, Please, Sir."

The Court: "Do you have any objection?"

Mr. Lorenzi: "I will accept the signature as being that of Odum Your Honor, I believe it is, and so I have no objection as to that. I am not familiar with who ELK may be. I don't know."

The Court: "Ms. Benson, he has objected to all three. Two which you said you wrote out the complaint and had the officers sign, did you give them a copy of it?"

Ms. Benson: "Yes, Your Honor."

The Court: "All right. Those two that you said were signed by the Officers are ordered recieved. (Whereupon said letters marked P-16



and P-17 for identification were received into evidence and filed with the Clerk.)

The Court: "Now, the third one, what about that one?"

Ms. Benson: "What I can offer on the third one, Your Honor, I mailed it, but since then, since we have been in Court, they have received copies of it."

The Court: "Well, no, no, that's not--"

Ms. Benson: "But I have no signed receipt for the third one, Your Honor."

The Court: "Well, it would be a self-serving document, so the objection to the third one is maintained." Why was secret tape not self-s?

Ms. Benson: "Thank you, Your Honor."

The Court: "Would you label the ones that I have ordered received so we know which ones we are getting in and which one we are not?"

Ms. Benson: "Okay. Plaintiff's Exhibit number 16 is the letter of complaint I left with the Chief, for the Chief of State Troopers, dated May 6th, 1984, signed for by Sergeant Odum. That's Number 16. and Number 17 is a letter to Chief of State Troopers, on May 6th.'84,

signed for by, Received by Officer ELK, E-L-K."

The Court: "Do you know who that is, Mr. Lorenzi?"

Mr. Lorenzi: "I am sorry, Your Honor?"

The Court: "Who is E-L-K?"

Mr. Lorenzi: "It has just been explained to me that those are probably initials. There is a trooper named Ed L, Kershaw. And that may be who ELK is."

The Court: "That is one I have ordered received."

Mr. Lorenzi: "Fine."

The Court: "Keep the other one yourself so you don't get them mixed up, Ms. Benson."

Ms. Benson: "No, Sir."

The Court: "Ms Benoit, you might get it before she mixes them up." underscore added.

Ms. Benson: "If I may, I would like to make couple of comments on those exhibits. At 3:15 in the morning on May 6th, I left this letter with the number of all three citations that I have previously put into the record. And I said to the Chief of State Troopers--"

The Court: "No, wait, wait, wait. What are you reading now, Ma'am?"

Ms. Benson: "I was going to read the contents, Your Honor."

The Court: "Of What?"

Ms. Benson: "Of the complaint I made."

The Court: "Well, is that already received in evidence?"

Ms. Benson: "Yes, Your Honor. That is the two you allowed."

The Court: "All right. Do you want to read it to the Jury?"

Ms. Benson: "I was going to. If you--if you--"

The Court: "Well, tell me yes or no, Ma'am."

Ms. Benson: "I was going to."

The Court: "Certainly you may publish it to the Jury. That's all I was asking you, just a simple question, please." underscore added.

Ms. Benson: "Thank you."

The Court: "You can read those two exhibits to the Jury if you want, or you can ask that they be shown to the Jury."

Ms. Benson: "They are very brief."

The Court: "Ma'am, I told you what to do,
so please do it." underscore added.

Ms. Benson: "It's addressed to the chief of
State Troopers. Dear Sir, I wish to make a
citizen's complaint against the two above
officers for police intimidation, harassment,
brutality, false arrest, as well as invading
my privacy, going through my personal posse-
sions and confidential papers, handcuffing me
and leaving me in the car without any ventil-
ation, and leaving me outside for about forty-
five minutes. Signed, Louella Benson, 6432
Montrose Street, Alexandria, Virginia. Signed
Received by Sergeant Odum. I never received a
response from anyone." underscore added.

The Court: "You never received what, Ma'am?"

Ms. Benson: "I did not receive any responses."

The Court: "Thank you, Ma'am."

Ms. Benson: "On May 6th, I didn't, I didn't
have clothes or a toothbrush. They had all my
suitcase and so forth. I stayed with my nephew
who lived in Lake Charles at the time. And in
the morning, which was Sunday Morning, I went,



since I couldn't get my car the night before, I tried again that morning, and I couldn't get it. So I went by the State Trooper's office again, and I left this second letter to the State Troopers, which says, since the alleged violations issued to me early this A.M., are shown in the Other Violations, should the codes 14:103, 14:108, 32:72 also shown mean anything different, please advise me personally in writing or meaning today. Signed, Louella Benson, 6432 Montrose, Alexandria, Virginia, 11:00 a.m. and then at the bottom I said, I was not able to obtain my car early this morning by calling the number you gave me, nor was I, nor by going there. Can you help me. I have no clothes, no glasses, and I have to make a plane out of town today. And this was signed received by E.L.K., 5-6-84. And I did receive my car that morning, I would say around 11:00, 11:00 or maybe a little bit after 11:00. Did not receive any responses from anyone as to that complaint either."underscore added.

"I might add here that I had never obtained a citation, and since there was a listing under Other, I was confused that it might mean something different, not being familiar with the code or procedure on how the system worked, not having been in the, never having been charged, never having received a citation, as such. And nothing was given to me, nothing different."

"Now, I received--I would like to introduce Plaintiff's Exhibit Number 18, which is a copy of page 442, of the Clerk of Court in Sulphur, certified by Karen Trahan, on 12-3-84."

The Court: "Any objection, Mr. Lorenzi?"

Mr. Lorenzi: "May I see that, Your Honor?"

The Court: "Surely."

Mr. Lorenzi: "No Objection, Your Honor."

The Court: "Ordered received."

(Whereupon said Court document marked P-18 for identification was received into evidence and filed with the Clerk of Court.)

Ms. Benson: "You will notice on here that on September 19th, 1984, on State Trials, at Number 3358-4, State versus Louella Benson, on 9-1984,



in quotes: Improper use of lane, resisting an officer, disturbing the peace, all three charges dismissed outright, as per assistant D.A. Ron Ware. I would like to enter this. And that was the charges that I had been introducing and entering. Unknowingly, unknowingly to me, before 1987, Defendant Hoffpauier, I learned in 1987, when he came in the act, he made a, at some point after he was in the act, he made a recording. But I did not know he had a recording then, and I didn't know it back before 1987. And the part where the incident occurred, when there was only Officer Odum and myself, is not on there at all. When I was scared to death from the beginning and provoked, that's not on there at all. And the part where officer Hoffpauier first came on the act, on the copy I have, it was given, it was a very poor copy, But when he came in, for example, he had asked me if I had drugs or weapons, or if I was drinking... so I feel it is very self-serving and very--"

Mr. Lorenzi: "Objection, Your Honor, argument"

Court: "Maintained."

Testimony of Ken Katsaris-former police officer, former sheriff in Florida with advanced degrees in police matters. TR180-

Q. "Mr. Katsaris, in your opinion, assuming that Ms. Benson had hugged the other lane, or crossed over the other lane, had that been the fact, after defendant Odum stopped her and obtained her driver's license with the current address, and established that she was not drinking, in your opinion, should he have given her a citation if he felt she had committed a violation and let her go on her way?"

A. "That certainly would have been one of the options available to the trooper. That is correct."

Q. "From the things that you have reviewed, is it your opinion that he should have let her go on her way after he established she was not drinking?"

A. "It is routine in law enforcement that once a traffic stop is made, that the person is determined not to have been under the influence or drugs or alcohol, if there was

a traffic infraction, unless there are other circumstances that would not allow for it, the party would be allowed to continue on their way. That's correct."

Q. "In police procedure, Mr.Katsaris, is it, is it not a fact that an inventory cannot be used to conduct, as an excuse to conduct a search?"

A. "Yes. That is a part of the Louisiana State Police manual, that cautions that the inventory should be done for the purpose of inventory of a car, and not as a ruse for actually searching, that is correct."

Q. "Now, in the documents that you said that you reviewed, I believe you said you reviewed the citations that were given to me on the morning of May 6, 1984, is that correct?"

A. "Yes. that's correct."

Q. "And then I believe you said you reviewed the copies of the citations, of the same citations that I obtained on Oct. the 9th, 1987--"

A. "That's correct."

Q. "--Also? In the copy of the first citation for improper use of lane, in comparing the two, do you recall that there was something added on the one provided to me four years later?"

A. "Well, let me relate it differently, if I could, to the Jury. There was a portion of the ticket at the bottom that was, apparently, not provided to you initially. And then the subsequent revision of those citations to you had another section at the bottom which had other conditions present at the time of the stop that were not given to you initially, or at least were not indicated in the documents provided to me. That's correct."

Q. "And should not that have been given to me when the ticket was given to me on the morning of May 6th, 1984?"

A. "Yes. All matters pertaining to the stop, and indications as to the things observed and present at the time that are on the traffic citation should be provided to you at the time so you would know the full scope



of what you are being charged with."

Q. "And my next question is, is it proper, is it proper for a State trooper to change a citation, to change a charge, or to change anything on the ticket, like the timing? Is it proper to make those changes without telling the--"

A. "No. In Law Enforcement anywhere, once a traffic citation is issued, certainly there should not be changes made unless a new citation is issued. And certainly quickly related to you as to what the changes were and why." underscore added.

Q. "Mr. Katsaris, I believe you said that you have been a patrol officer, and a Deputy Sheriff. In making, in stopping, in making a traffic stop, what is the first thing an officer should do?"

A. "Well, first let me say, so that the Jury is not misled. I have not been a deputy sheriff. I haven't testified to that. I was a police officer, and a sheriff. But in



answering the question, when a traffic stop is made, a police officer anywhere in the country would signal that they are attempting to stop you by the lights or the siren. And there are several different types of those provided throughout the country to give some indication of a stop being made, the car pulled to the side of the road, the police car, which does not relate here, would be placed in a certain type position..."

Q. "Yes. After I was stopped and off on the shoulder of the road, and Officer Odum came to the car and shouted very loudly at me, was it proper for him to shout, as opposed to just whatever he had to say, to say to me in a speaking manner, as opposed to shouting?"

A. "Well, an officer should use the tone of voice indicated by the conditions. and, certainly, if the person is seated in the automobile and can hear the officer, there wouldn't be any cause to shout under those conditions. I am not going to exclude, you know, a number

of other kinds of conditions that might exist. But if a person is in the car and aware, and certainly reflecting an indication that they are aware of the presence of the officer, and communication, can be made, if it's not necessary, it wouldn't be necessary. That's correct."

Q. "Right. The person is stopped on the shoulder away from the highway, and there is no emergency at that point, there would be no reason to shout?"

A. "Normally, I would say, no. That would be correct."

Q. "Ms. Benson testified that she, Officer Odum later asked for her driver's license, which she gave to him. After Ms. Benson gave Officer Odum her driver's license, with the correct address, was that not proper identification?"

A. "Normally, driver's licenses have photographs, and specify address and so on, and are generally accepted on the surface as identification at that time. That would be correct."

underscore added.

Q. "In your role as a sheriff, when you were a sheriff, did you have occasion to work with prosecutors when they were contemplating dismissal of charges?"

A. "Yes. Prosecutors have discussed with me dismissal of charges of some of my deputy sheriffs. That is correct."

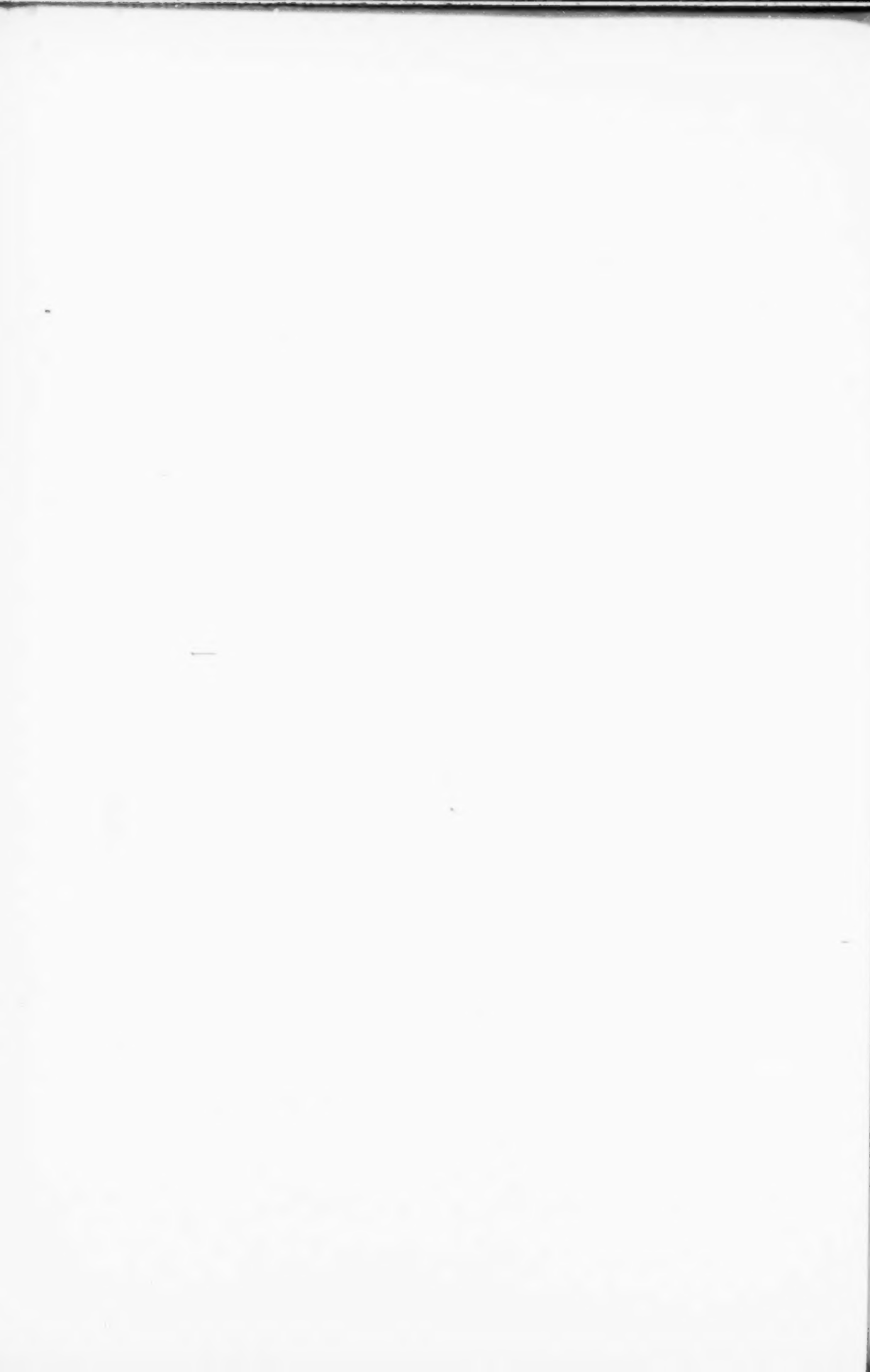
Q. "In your opinion, what is the basis, what is the basis for charges being dismissed?"

Mr. Lorenzi: "Objection, Your Honor. Ms. Benson is now asking the witness, the basis upon which a prosecutor dismisses. I accept the fact he has been qualified as an expert, but that was in police procedure. And he is not qualified as an expert as a prosecutor to where he can give an opinion as to what a lawyer who is a prosecutor--"

The Court: "Objection maintained."

Ms. Benson: "I will rephrase that question, if I may?"

The Court: "Try, Ma'am, and you may get it in another way." By Ms. Benson:



Q. "Mr. Katsaris, are you familiar with charges being dismissed, charges such as were issued to me being dismissed?"

A. "yes."

Q. "When the charges are dismissed, what does that, what does that indicate?"

A. "It would indicate lack of evidence, bad judgment."

Q. "Mr. Katsaris, if a person such as Ms. informed the troopers that she would file a complaint, is that to be construed as intimidation, or should the trooper, in anyway, be, should it be considered intimidation or harassment?"

A. "No. I think that as an officer has a right to tell a citizen they are going to write them a citation, I think a citizen has the right to tell an officer that they are going to file a complaint. It is very basically the same process. And it is open to both parties. One has the right to cite and arrest, and the other has the right to file a complaint, and to indicate to (underscore added)



the officer that they are going to do so.
It is part of the judicial process that is
allowed." underscore added.

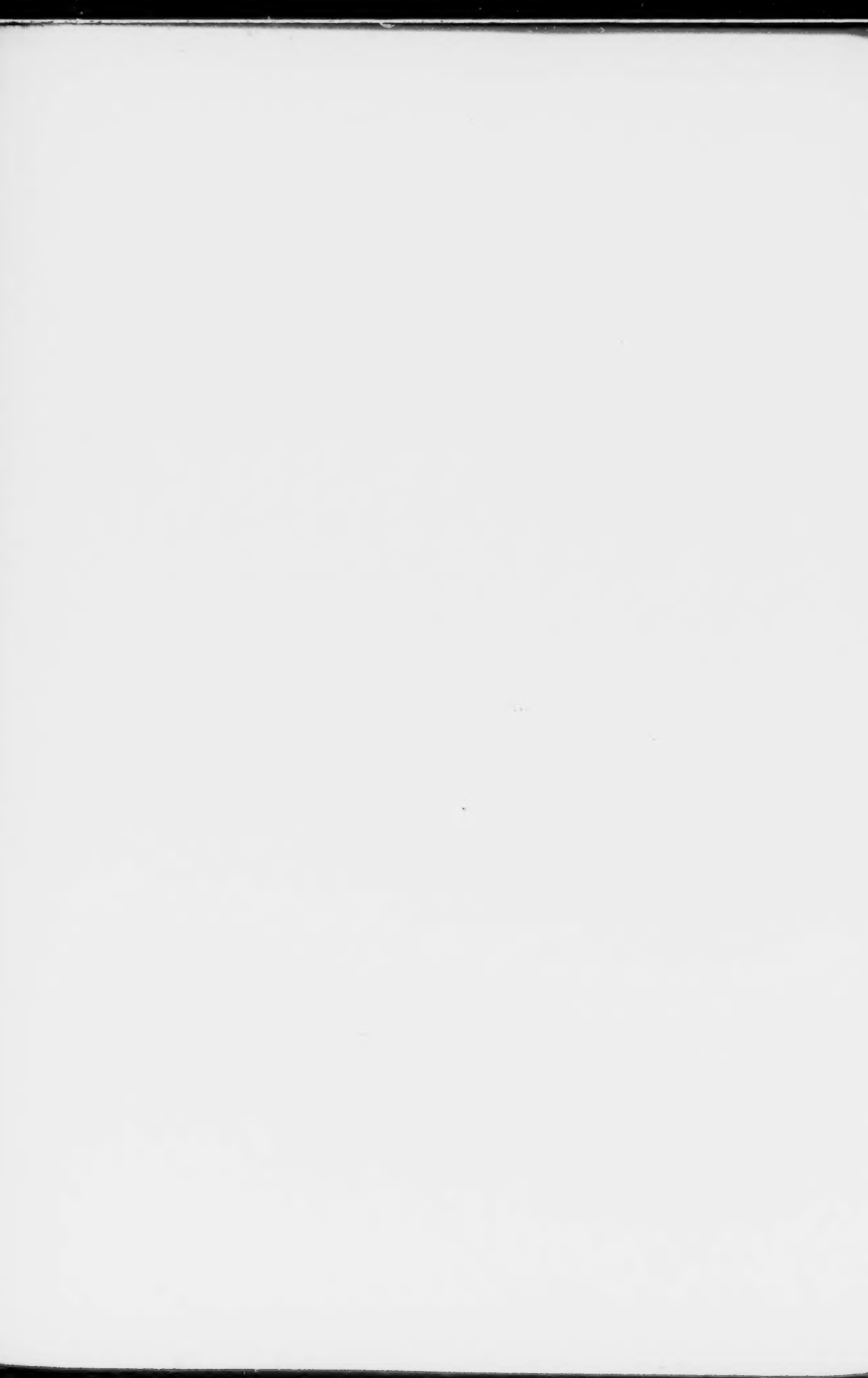
Q. "Mr.Katsaris, from the information that you have reviewed and read, was Ms.Benson arrested?"

A. "Yes."

Q. "From the information that you have re-
viewed and viewed, the photographs that you
have seen, that you have looked at, do you
feel that, did you believe, is it your opin-
ion that excessive force was used by Officer
Hoffpauier?"

A. "In listening to a portion of the audio
tape that was made, and reviewing the mater-
ials and what was related by the officers of
the encounter, the arrest report, and the
photographs, it appears that more force than
was necessary was utilized by the officers in
taking Ms.Benson into custody."underscore added

Q. "Mr. Katsaris, Ms.Benson testified that
Lt. Hoffpauier held a flashlight and Officer



Odum read her correspondence with a lawyer,
and went through her briefcase, in your
opinion, was this improper?"

A. "The reading of materials beyond obser-
ving that the materials existed would move
from the phase of inventory to a search, in
my opinion, when they read the material, as
opposed to noting the existence of the
material."

Q. "Mr. Katsaris, Ms. Benson testified that
she informed Officer Odum when he asked her
if she had drugs or weapons, that she did
not have drugs or weapons, after he estab-
lished that she was not drinking, and that
she had a valid driver's license that identi-
fied her, should he not have let her go on
her way?"

A. "Well, from all the material I reviewed,
it certainly was apparent that they were not
making any accusation of drinking or drugs,
and may have had a traffic violation. And I
think that could have been certainly one of
the courses of action, would be to allow
underscore added



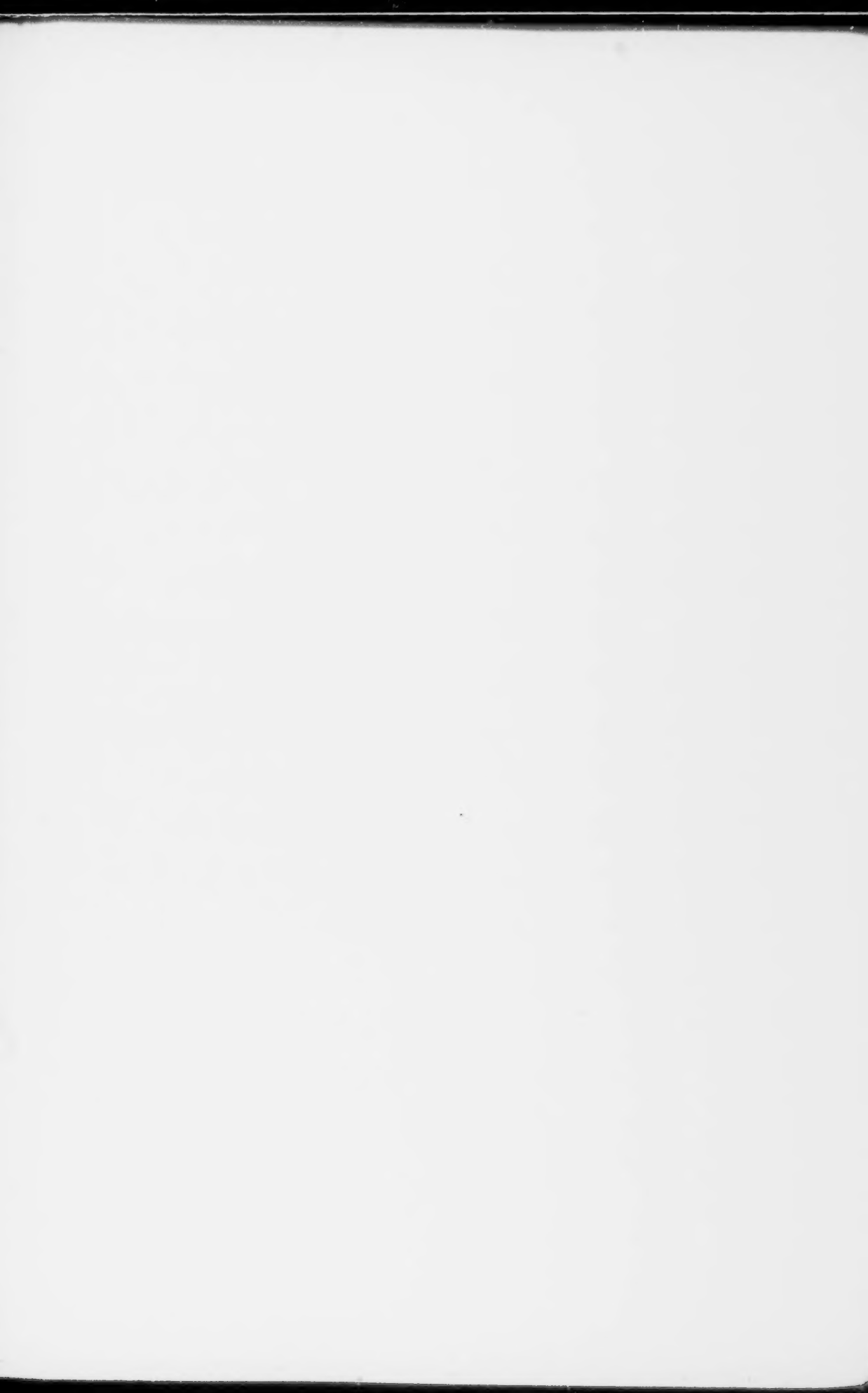
the party to drive on after either a citation is issued or a warning is given as to the appropriate conduct that they expect on the road."

Q. "In your reviewing of materials, including their depositions, I believe you testified that they admitted there were no drugs, and that I was not, that Ms. Benson was not drinking. In addition to that, do you recall if the review specified that Ms. Benson did not have any weapons?"

A. "There was no indications by the Officers in any place of all the materials that I read that there was any of the three that you just mentioned present, drugs, alcohol or weapons, either on your person or in the vehicle. That's correct."

Q. "Mr. Katsaris, I think you testified that you reviewed the computer information that the troopers obtained on May the 5th, 1984, which was the night of the arrest?"

A. "That is correct." underscore added.



Q. "And do you recall what, do you recall whether or not those, those computer runs state if Ms.Benson had restrictions on her driver's license of any kind, or if she had a record of any kind of arrest?"

A. "Those computer runs on the driver's license indicate no restrictions, and indicated no other prior driver record. That's correct."

Q. "And in view of that, and the earlier points that I made, no drugs, weapons and no drinking, is it not your opinion that Ms.Benson should have been given a traffic violation if they thought there was one for crossing over the lane, had that been the case? Do you not feel she should have been given this violation and let go on her way?"

A. "Well, I don't see any reason why a citation could not have been given at that time. That's correct." underscore added.

Q. "Now, as to the tape, the tape recording that Defendant Hoffpauier made, in your opinion, and Ms.Benson testified that, and the



deposition shows also, depositions that you reviewed, do they not show that Officer Odum was the Officer who first stopped Ms.Benson?"

A. "That is correct. The first Officer on the scene, and to make a stop of the vehicle of Ms.Benson was Officer Odum."

A. "And then Officer Hoffpauier who came in the act later, unknowingly to Ms.Benson, at some point, made a tape recording?"

A. "That is correct. He indicated he went back to his automobile and retrived a tape recorder."

Q. "When you reviewed the tape, Mr.Katsaris, did you note on the tape that Ms.Benson informed that she was, Officer Hoffpauier that he was hurting her and/or something to the effect of not manhandling her?"

A. "Yes. I heard protest of, you know, don't hurt me, and don't handle me that way. That is correct."

Q. "Mr.Katsaris, what is the maximum speed limit on a bridge in the United States?

Do you know?" underscore added.



A. "Well, let me say that at this time on the interstate highways, and at that time, I should say, on the interstate highways, there was a maximum of fifty-five. I don't think you can characterize a speed limit on a bridge unless you specify a particular bridge."

Q. "Okay. So were you familiar with the maximum and minimum speed limit on a bridge here in Louisiana in 1984?"

A. "Yes. That was fifty miles per hour."

Q. "And the minimum?"

A. "Considering the location, I believe that that would be a minimum speed because of the traffic, the roadway designation, it would be forty."

Q. "Mr. Katsaris, how long does it take to write out a citation?"

A. "Well, Officers generally, considering it's part of the routine duties an officer has, and there is extensive training on filling out the traffic citation, is kind of second nature, it takes just a few minutes." underscore added.



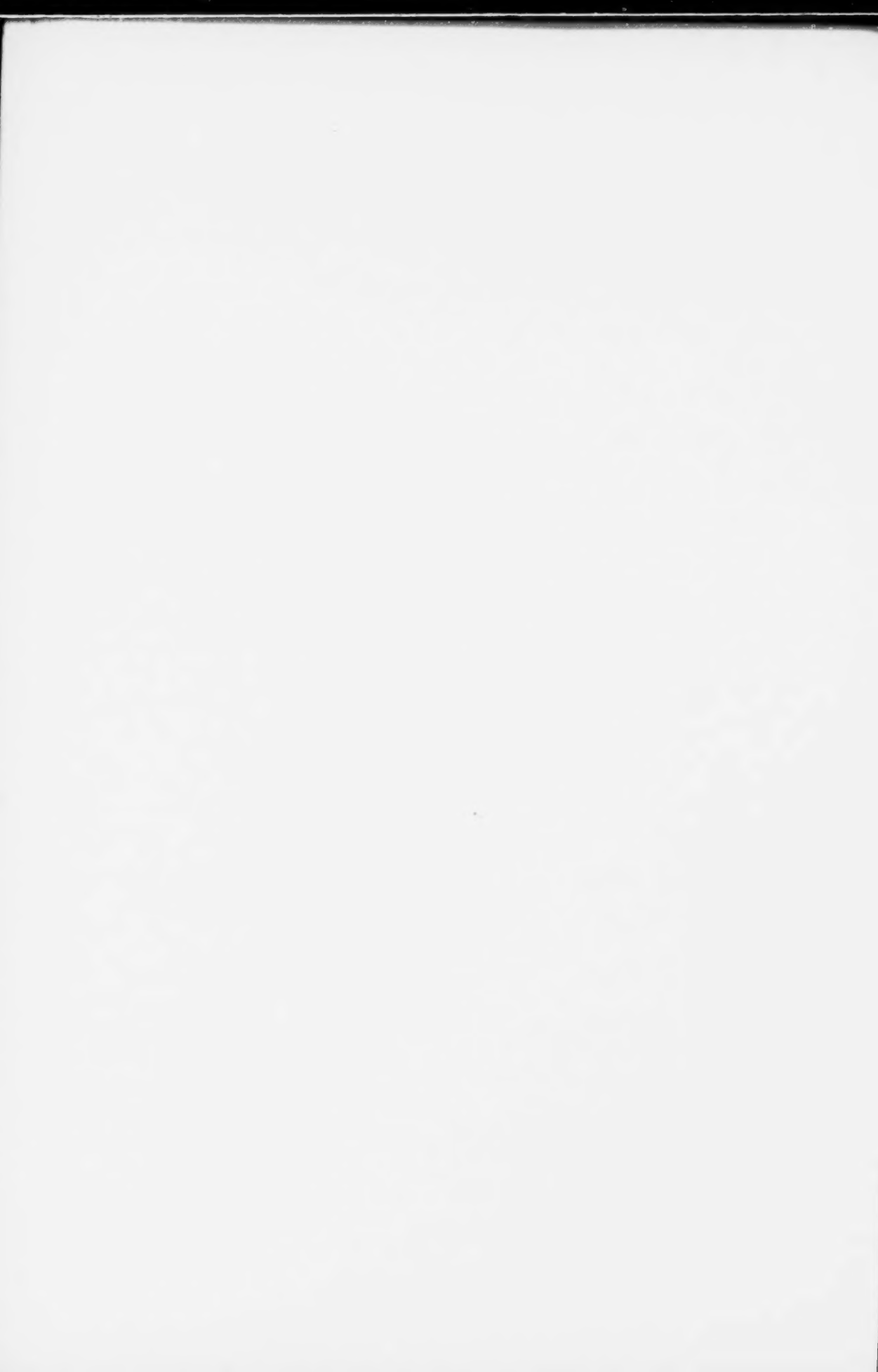
Q. "Mr. Katsaris, Ms. Benson testified that she was very afraid when Officer Odum shouted to her to get out of the car, and she testified that she did get out of the car. And she told him she would as soon as she could put her shoes back on. In view of his shouting, and her testimony about defendant Odum's brutality and their refusal to give her a citation with whatever they were going to charge her with, was not Ms. Benson justified in being afraid?"

A. "Well, there may be--"

Mr. Lorenzi: "Your Honor, I have to object. That calls for the state of mind."

The Court: "Sustained. That is not within his expertise."

Q. "Mr. Katsaris, in--I think we have covered that. Mr. Katsaris, in view of what you reviewed, and the, when officer Odum stopped Ms. Benson and established that she was not drinking and had her walk on the side of the car, and was shown the vanilla malt container she had in the car and so forth, is it your



opinion that the incident should have been classified as an emergency of any kind?"

A. "No, I don't believe it was an emergency. No ma'am." underscore added.

Q. "Mr. Katsaris, in your experience, when the, do police officers, do they generally dismiss charges--wait a minute--I think we have covered that question. I am sorry. Mr. Katsaris, Ms. Benson testified that the troopers left her in the police car handcuffed with all the windows up. In your opinion, was that proper?" And that she had difficulty breathing."

A. "From the environmental conditions I was made aware of, there didn't appear to be any reason for that. No."

Q. "Mr. Katsaris, in your opinion, can law observance be disregarded? Can law observance be divorced from law enforcement?"

A. "No. If you are asking me if law enforcement officers are above the law, No."

underscore added.



Q. "Mr. Katsaris, is a police Officer allowed to make misrepresentations in a citation, or in anything? Are they allowed to make misrepresentations of what the situation really was?"

A. "No." underscore added.

At page 253 of Transcript-Mr. Katsaris' testimony.

Q. "And do you recall that my inquiry to him was seeking the information in the file, in his file?"

A. "I believe that would be correct. Yes, Ma'am."

Q. "And do you recall he informed me that I could not receive this information, that it was for police use?"

A. "That's correct, That is what he informed you of."

Q. "Now, opposing counsel made some remarks about out of control. Since I testified yesterday that I was forty-nine at the time, and I had never been stopped by the police, I had never had a moving traffic violation, and I am now fifty-three. I have had two speeding



tickets since the incident. In the depositions of the troopers that you reviewed, do you recall where defendant Odum who wrote the citations admitted that I had an excellent driving record?"

A. "Yes, he indicated that you had no blemishes on your record. That's correct."

Q. "In view of that, Mr. Katsaris, and your impression of me, I know that you just saw me two days ago, but you had talked with me on the phone, have you ever seen me out of control?"

A. "No, Ma'am. I never have seen you in, you know, in any way that would indicate that you went into hysterics."

Q. "You saw me drive a car yesterday morning. And it was raining very hard. Did you see me out of control?"

A. "No. You drove very well, especially considering the circumstances." underscore added.

Q. "And in view of my driving record that they, the troopers obtained that night, and the items that I just pointed out to you,



would that be indicative of a person who would be out of control, who would just drive a car out of control?"

A. "No. I don't think those things would be indicative of that."

Q. "Mr. Katsaris, in your dealings with me, did I, was I very open?...and did I not give you just all the information that I had at the time that I had it?"

A. "As far as I know, you have always provided everything timely, and were open about your provision of those things. That's correct."

Q. "Mr. Katsaris, when you are contacted by lawyers for prospective cases, is it not so that lawyers contact you on the phone initially, and do you not build a rapport of some kind with them on the phone before you actually meet them since you work in different parts of the nation?"

A. "That's correct."

Q. "So then since I was acting pro se, it's very much the same thing. You really don't know the lawyer any more than you know me, is that correct."

A. "That's correct."



Q. "And in your dealings with me, even before you met me, did you find me to be anything but what I should be, or did you find that I was polite, and with it, and coherent, and all these things, in control?"

A. "Ms. Benson, I have no, no indication of any difficulties of our communications. I have been very, youknow, impressed with your handling of the case, not being a lawyer, up through trial. That is very difficult."

Q. "Mr. Katsaris, counsel made some remarks about when Officer Odum stopped me. Do you recall, in your review of Officer Odum's deposition, when I first took his deposition and asked him what he meant by erratic driving? Do you recall that his first response was that she was driving too slow?"

A. "Yes. That's what he responded, I believe, Yes, Ma'am."



At FR 224 On Cross Mr. Katsaris gave the options available to the Def.Officers:

Mr. Lorenzi:

Q. "When a person has been stopped, you made, I think you said there was a comment about issuing a citation if you were satisfied that there were no drugs or alcohol involved, is that correct?"

A. "That would be one course of action, would be to give them a citation. That's correct."

Q. "What would be another course of action?"

A. "To give them a warning and let them go on their way."

Q. "What would be a third course of action?"

A. "Ask them to follow you to the appropriate official place where they would post their bond if you felt it necessary for them to do that." underscore added.

Q. "Do you know of any requirement--maybe I should ask it this way. Does the fact that a person has an out of state driver's license affect whether a police officer will issue a

citation on the side of the road and let them go?"

A. "There are provisions in Louisiana for allowing the citation to be written as long as the other state is a participating state with a compact. If there is a compact between the two states, then they are allowed to issue a citation and let them travel on. If there is not a compact between the residing state of the stopped traffic violator and Louisiana, then the officer may ask the person to follow them in their vehicle to the location where they would be posting their bond on the offense for which they are being cited. Another option could be, and it is not suggested, necessarily, for a routine traffic violator in the Louisiana State Police Manual, to actually, physically take into custody the person and impound their car. It is suggested even in Louisiana that you allow individuals from another state to traverse the state of Louisiana as freely as possible,

and certainly cause them the least harm and inconvenience as can be, and that would be by having them follow you, and not impounding their car."



Testimony of Louella F. Benson by Mr.
Lorenzi: TR 327-29

Q. "Do you agree that you were desperate?"

A. "I was very, very afraid. I guess I was despearte. I didn't know, quite frankly, I didn't know what they were doing. And I don't want to repeat my testimony, but if they had given me a citation, I did not understand what took so long to write a citation, why they had to be two, and then three, especially in view of the fact they established that I was not drinking, and I didn't have any drugs or weapons."

Q. "Ms. Benson, was it not your belief that your brother-in-law, Depty Bearb, had somehow or another managed to have you stopped?"

A. "Mr. Lorenzi, at the time, I was so afraid and surprised at what was going on that I didn't know what to think, very frankly. My brother-in-law had treated me very badly and he had influence, he had political influence. But I did not know what was going on."

Q. "...but my question is, did you think that there was a possibility that you were being stopped because of some action taken by your brother-in-law, the Deputy with whom you had this dispute?"

A. "Mr. Lorenzi, I did not know what to think. I was very afraid. I had hand carried that letter the day before, the morning I had found barbed wire at the gate to go to the farm. I had to walk, I couldn't drive..I was very afraid.

Q. "Now, you say you were afraid and you were desperate, but you persisted in disobeying what the police officers were telling you to do, didn't you?"

A. "Mr. Lorenzi, they were laughing. When Mr. Hoffpauier came into the act, they were laughing. I was horrified that they were laughing."

Q. "Ms. Benson, does the mere fact that some people, in or near your presence, laugh, mean to you that they are laughing at you or laughing about you?"

A. "Mr. Lorenzi, I was asking them to give me a citation if I had done something wrong. And

to them, it was very funny. It was a joke."

Q. "Tell me, ma'am, how you allege that your knee and hand were bruised on May 5, 1984?"

A. "What my, my knee was bruised when he pushed me. I fell. That's how my knee was bruised. And my hand was bruised, I suppose, somehow when he had me handcuffed from the back, and the handcuffs were kind of tight. And during the time when he was manhandling me, when he looked in my pocket, I was very, very afraid. I didn't have anything in my pocket. I felt that was a violation of my privacy, of my private person, and--"

Q. "And yet, you were not so scared that you were unable to argue with three men and, in fact, tell them that you were going to file a complaint against them, that you were going to sue them?"

A. "Well, after they would not give me a citation, and after defend.Hoffpauier was brutal, I did say that I would file a complaint against them. Yes, I did."

Testimony of Def. Lt. Hoffpauier TR 555-

By Mr. Lorenzi:

Q. "Mr. Hoffpauier, I have placed before me a small plastic box that has defendants' exhibit 1 attached to it, and a small micro-cassette, I believe it is called. Can you identify the microcassette, Sir?"

A. "That's the tape that I inserted into my tape recorder. It was my initials on it."

Q. "Is it dated, sir?"

A. "5-4, I believe, of '84. It looks like 5-4-84, I have on it."

Q. "Is that your writing, Mr. Hoffpauier?"

A. "Yes, Sir. Also on the reverse side, I have Lou Benson written on the other side."

Q. "Have you listened to the tape since it was made?"

A. "Yes, Sir, I have."

Mr. Lorenzi: "Your Honor, at this time I would offer, introduce and file in evidence, marked B-1 for identification, the tape recording identified by Mr. Hoffpauier, the witness."



The Court: "Ms. Benson?"

Ms. Benson: "Your Honor, I object because the tape was made by Officer Hoffpauier after he came in the act. It completely eliminates the provocation by Officer Odum, and Officer Hoffpauier's actions when he first came in the act laughing. And he, too, asked me if I had drugs or weapons, and I said, No. And they wanted to search me. And I said, No. That's not on the tape. So if he went back secretly and got a tape and came back and staged a scene as if I was in the road, and I was not in the road. So in addition to that, it's very blurred at times. It goes, it's very unfair, in that there are lines that you can't understand. It's very blurred. And it's very, very self-serving. There are things on there that are very helpful to me, also. But it was deliberately made. It was staged. And the things that he is saying on there didn't really transpire like that. He went back to the car and turned on the



tape, and then came back and staged a scene as if I was in the road. And I was not in the road, nor was I leaning over the road. Not to mention, as I mentioned, the provocations by Odum being completely out of the picture, as well as his first approach, laughing. And I think that that is most unfair. I never heard anything about the tape before 1987. And I think that it's just a violation of my rights, my due process rights, the wire tap laws. and it is extremely self-serving. Not to mention the fact that when they played it for me, it was a very, very poor presentation. In fact, had Mr. Price, the insurance adjuster not been there, we would not have gotten very much of it at all. He happened to have a little recorder that was able to put on a better sound. But I most respectfully object to that tape."

The Court: "The objection is overruled. The tape is ordered received."

(Whereupon said tape marked D-1 for identification was received into evidence and filed with the Clerk of Court.)

Mr. Lorenzi: "Your Honor, I would move--"

Ms. Benson: "I note my exception, Your Honor."

At TR 569 - Def. Officer Hoffpauier by Ms. Benson:

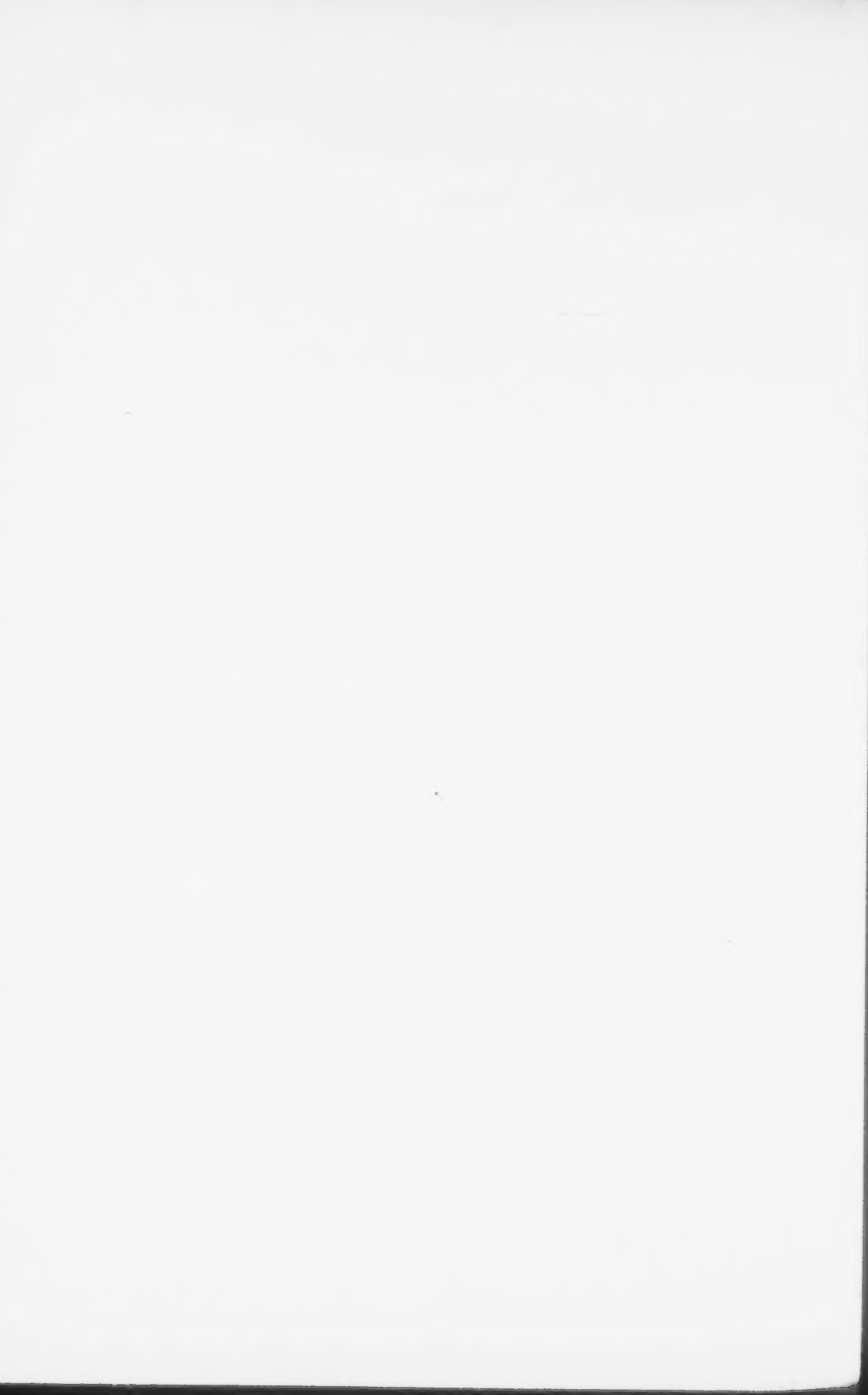
Q. "Officer Hoffpauier, we talked about Officer Odum calling you and telling you he had a possible DWI. Is it your testimony that when you are a possible DWI, you are a violator?"

A. "In police work, Ma'am, when we call in a stop on the police radio, we refer to it as a possible DWI or a traffic violator. And that is the way it is classified on our Radio Log at the Troop....that's what we refer to in communications between the officers on the road, on the radio."

Q. "And you stated that in your deposition, as well, did you not?"

A. "I believe I did."

Q. "..did you see what transpired when I was stopped?"



A. "When you were immediately stopped, no. I was not there. I was on my way there."

Q. "Were you in the Courtroom yesterday when Officer Odum testified?"

A. "I was."

Q. "Were you aware of the inconsistencies?"

A. "What inconsistencies?"

Q. "Under oath? Were you aware of his inconsistencies under oath?"

A. "What inconsistencies, Ma'am?"

Q. "For example, he testified that, he testified that I had not asked, that he had tried to give me a citation and I refused to take it, that was one statement. And then later he testified that I had asked for a citation. Did you catch that?"

A. "Did I what".

Q. "Did you understand that?"

A. "I heard it. Yes, Ma'am"

Q. "And then, well, there are others. There are others. But the point I want to make, I don't want to belabor the point because I have other questions. The point is, if the



First Officer who stopped me will say misrepresentations under oath, and you did not see what happened, how can you call me a violator of law?"

Q. "My question to you is, first of all, were you aware of the fact that Mr. Odum was taking medication?"

A. "When, Ma'am? I have no idea if he takes them or when he takes them. And I don't even know if he takes them."

Q. "If Officer Odum had been taking high blood pressure medication at the time of the incident, could that have something to do with his behavior?"

A. "I have no idea."

Court: "Ms. Benson, I don't think this witness is qualified to express an opinion of a person taking a medication, how that would affect his behavior. You need a doctor to do that. But he has answered the question."

Ms. Benson: "Well, Your Honor, I have to take my exception to that. Because the defendants



insisted on searching me because they felt that I was taking medication, and they even engineered a drug that I had never heard of. And they were presupposing that I was under drugs of some kind, which was not the case. And they are not doctors."



Testimony by Louella F. Benson TR 645

Ms. Benson: "I stated on the tape a number of times that I had asked for a citation. I stated on the tape that Officer Hoffpauier was hurting my hand."....

Ms. Benson: "Your Honor, the tape was played yesterday, and since they brought the tape on their direct, if I am allowed to, I would like to make some comments about the tape."

Court: "Go ahead, Ms. Benson. Proceed...You want to sit there and simply say the things that were facorable to you on the tape..."

Ms. Benson: "I also made efforts to have an opportunity to call a lawyer a number of times. I also pointed out that after Cfficer Fox came in the Act, they were reading my papers. Cfficer Fox told them that night that I was identified after he arrived with his camera. I would like to testify about an exhibit that I questioned Defendant Hoffpauier on during his testimony. And that is the computer runs that they obtained

on May 5, 1984. That's the night that I was stopped. Now, Officer Hoffpauier testified that his signature had inadvertently gotten on those two computer runs by a carbon copy in his office when he was doing Administrative work. They stopped me. Their evidence, their facts showed that they stopped me at 11:35 P.M. on May 5 of '84..... the computer runs are dated May 5, '84, printed above. They are both signed by Officer Odum, dated May 5, '84. I was stopped at 11:35 P.M., on May 5, '84, and by the time I was taken to jail, it was May 6, 1984. The computer runs identified me, my address, my social security number, and the fact there were no restrictions on my driver's license--"

Mr. Lorenzi: Objection, Your Honor..this is argument."

The Court: "Would you all approach the bench."
....I am going to to have to throw your case out



Testimony by Louella F. Benson TR 651

"...But at some point in time, Officer Fox told them it was not an emergency.

I would like to try to talk about Mr.Ware's testimony. My concern is to say under oath what I have to say, and since I am not a lawyer, I have difficulty in phrasing it in a way that it doesn't sound like an argument. I had never seen or spoken to Mr.Ware before Sept. 19th, 1984, when I appeared for trial. At no time did I discuss the case with Mr.Ware.I testified as to Mr.Ware's comments, I think, on direct. So I am not allowed to go over it again. Mr. Ware spoke to me just the amount of time that it takes to tell me that the charges were dismissed, that I had a clean record. As it turned out, four years later there was a secret profile by Mr.Ware,who is not a psychiatrist..."

Ms.Benson: "Officer Odum testified that my behavior was bizarre. But he had no specifics other thant to say that Iwas married to a prominent man. I did say I was

married to a prominent man, but for no other reason than after he had asked me if I had drugs or weapons, I simply told him that to let him know that I was not the type of person to have drugs or weapons. I had been working on a home to make it ready for women and children, a private home.

At TR 654:

Ms. Benson: "Okay. Okay. I would like to testify that at no time did I go in the road. At no time did I lean over the road. I would like to testify that the troopers did, Indeed, read my correspondence."

Mr. Lorenzi: "Your Honor, again, I object."

Court: "Well, no. I am going to overrule..."

Ms. Benson: "Thank you, Your Honor. All my belongings were seized from me, including my private papers. For a span of time I don't know where my belongings and my private papers were." Officer Odum testified on their direct that he shouted at me several times to get out of the car. I did get out of the car. I did tell him I have to put my shoes

back on. The doors of the car, of my car, were unlocked. I was a woman travelling alone at night. Women are advised to lock the doors of their cars at night in traveling alone. Perhaps I was stupid, and too trusting, but I did not lock the car. After he shouted at me to get out of the car, he was a police officer, but he was very big, and he was shouting very loud. And I did not know what I had done wrong. I was very frightened, but I did get out of the car. I did walk alongside the car as instructed to do. I was not drinking. I had no drugs. I had no weapons. He did ask me, Officer Odum asked if I had drugs or weapons. I said, No. He asked if he could make a search. I said, No, because I did not have any. And it was in that, it was then that I said, I am married to a prominent man...I have never been near drugs. I have never owned a weapon. Officer Odum had a weapon. I was extremely frightened. I was



terrified when Officer Hoffpauier arrived laughing. And they were laughing. They talked away from me and laughed. I was just horrified. So, yes, I did yell for help. I did yell for help. I did wave, but not from the road, or not from the side of the road. I am extremely disadvantage because there is no tape as to what happened from the beginning, or during Officer Hoffpauier's first entrance. That side of the story, that side of due process is not available to me. The changes show that I used abusive language and I refused to identify myself to Officer Cdum. The facts show I was identified before."



More testimony of Louella I. Benson at TR.95
(Proceeding in open court, Jury present.)

The Court: "You may proceed, Ms. Benson."

Ms. Benson: "During the time I was on the Highway, when they were keeping me on the side of the road, on May 5th, 1964, and early morning of May 6th, 1964, Defendant Hoffpauier asked me if I had any documents to show that I worked for the U.S. Government. I did not have government documents. And I did not work, and I do not work for the government. And this had something to do with the search, and as I said earlier, they defendant (dum) had asked me from the beginning if he could conduct a search. And I told him, No, he could not. And a search was indeed conducted. I have documents here that I would like to enter for the purpose of showing that they were personal documents, like I have a first page of a letter I had written to a lawyer. And I have other documents. They are personal estate things. And those are the things I had in my briefcase...I would like to enter that as



Plaintiff's Exhibit Number 24.....

Q. "Ms. Benson, are you identifying these documents as being those that were in your briefcase, and for which...for which you are claiming damages for these police officers having seen them?"

A. "Those are some of the documents. All, everything you have there, I had that in my briefcase, plus other similar documents. With the exception of that first handwritten page, that was on the front seat. It's to show the nature of the type documents I had."

"Now, you mentioned damages, should I elaborate on that now, Your Honor?"...Mr.Lorenzi is a lawyer, Your Honor, and I am certain he knows that a person has lawyer-client privilege, that Mr.Adams listed in that letter, is Jim Adams, an attorney in Lafayette. And I had hand carried that that day. It is dated May 5, 1984. And Officer Hoffpauier held his flashlight, and defendant, Officer Iox, read that letter. And when they finished with that, they went to the briefcase in the back. And my position



as damages is concerned, there is a right to travel, and I have a right to carry personal papers without being highjacked and my papers read by the State troopers." By Lorenzi:

Q. "...Do I understand that this document addressed to Mr. Adams was in the vehicle on the front seat?"

A. "Yeah. That was on the front seat."

Q. "And do I also understand that the rest of these documents, as well as other similar documents--"

A. "There were other things of the estate, that type of thing."

Q. "And were these in a briefcase in the trunk?"

A. "That's right."

Q. "And do I understand that as part of your lawsuit, you are claiming that these gentlemen violated the law in reading these documents?"

A. "I feel that they violated my rights by reading my papers which were, I had attorney-client privilege on that. And I told them I

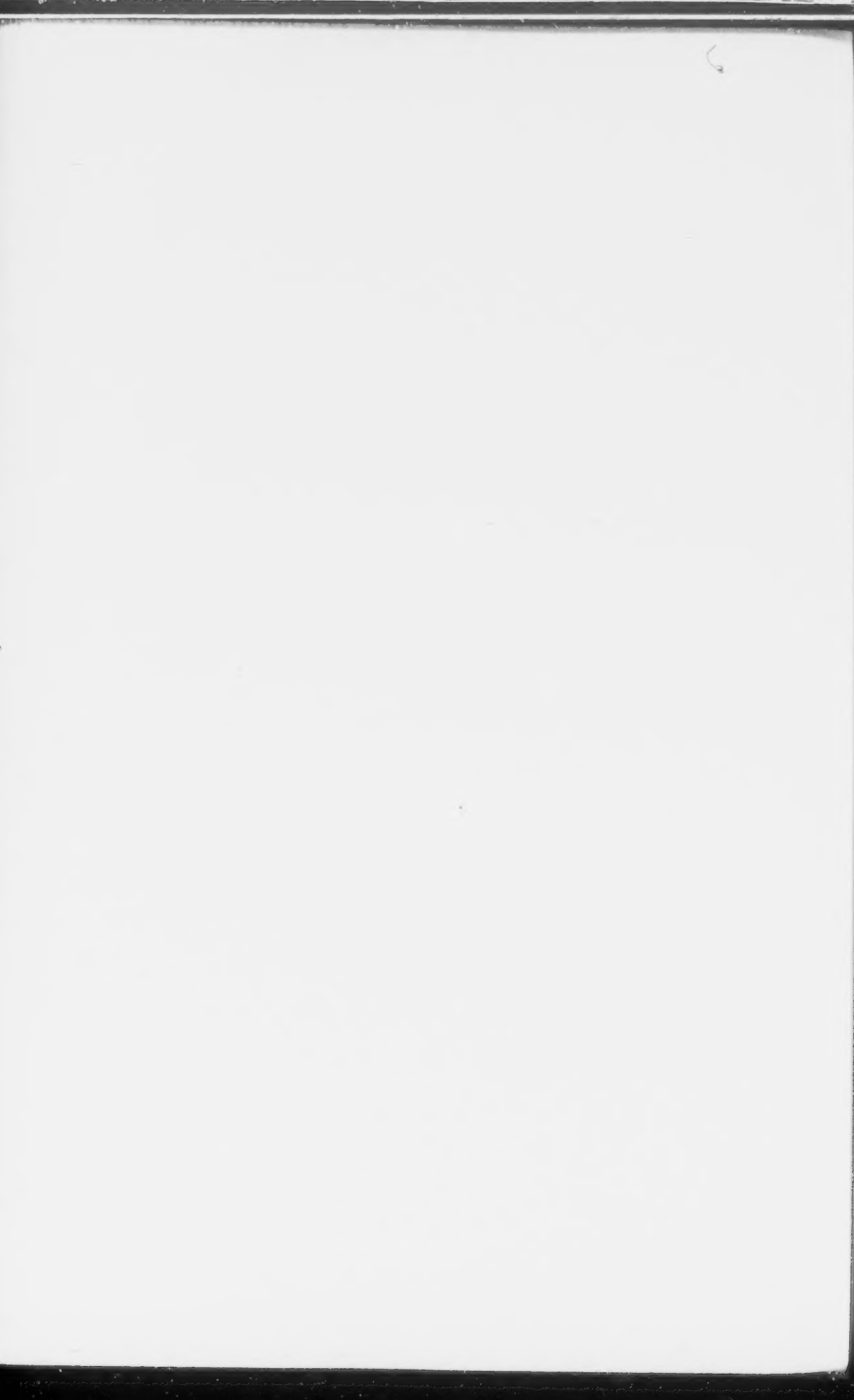


didn't have... what they were looking for, and I don't think they had a right to read my papers."

Q. "Are you introducing these for the purpose of showing that this is what was read, and that this was a violation of law to do so?"

A. "I feel that it was-a violation of law. But in addition to that, since you brought it up, your client, Def. Fox, when I took his deposition testified that I said that I was a government agent, and that I had government papers. And at no time did I say any such thing. And this shows that they were not government papers. And I have never been a government agent, and I have never worked for the government....nor did I ever say that.... If you are traveling on the highway...you don't want to be stopped by the troopers and say, hey, I am looking for drugs and weapons, and while I am at it, I am going to read what you got in your briefcase."

Mr. Berenzi: "Your Honor, I don't understand



what the relevancy of the documents is based on the traversal. So I am going to object to the relevancy of the documents which have something to do with estate problems, unless the witness is going to tell us what the relevancy of them is."

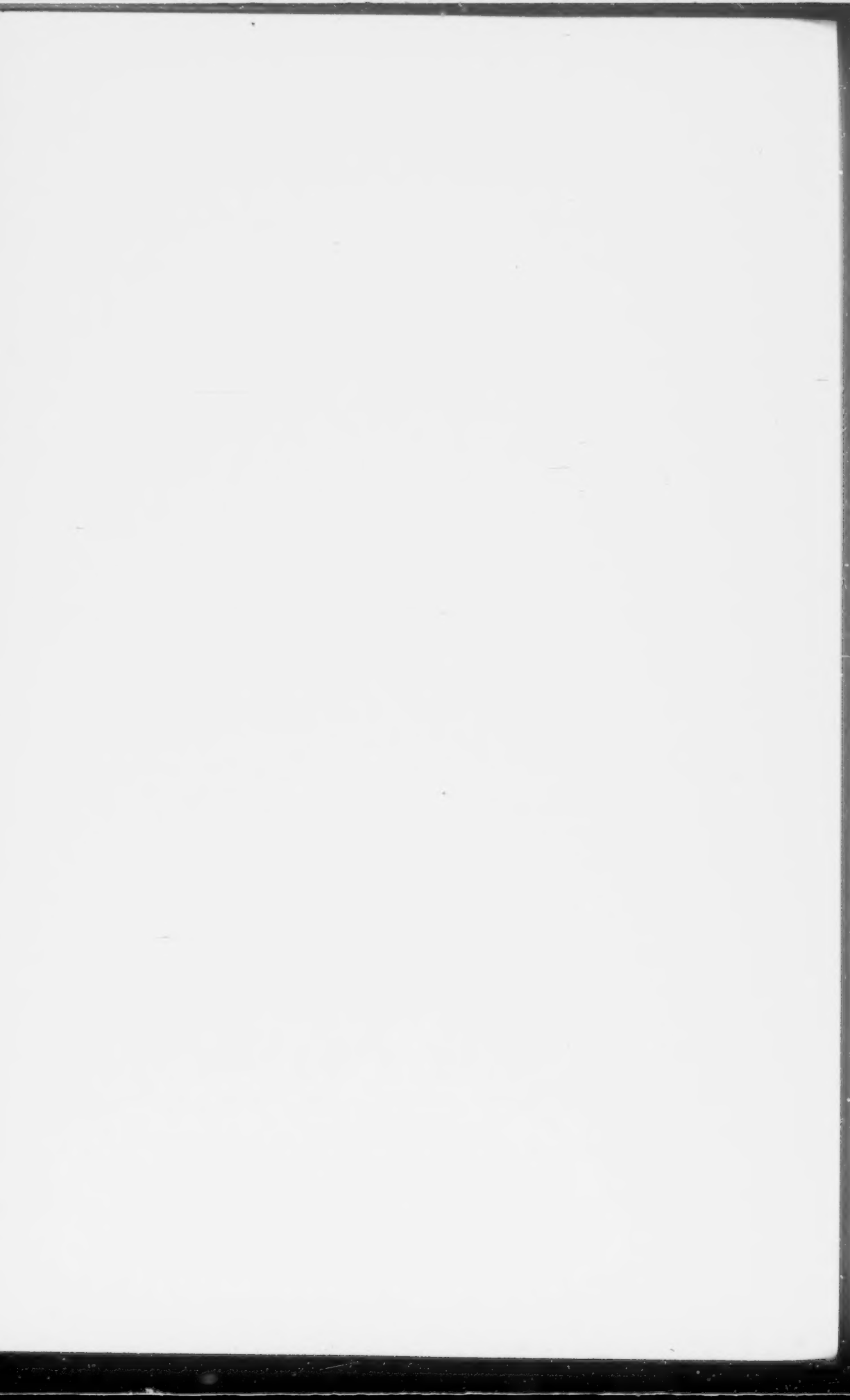
Ms.Benson: "Well, I just told you, is to show what I had in my briefcase that they read. And it's also to show that unlike Officer Fox testified, they were not government papers."

Court: "Now, wait just minute. Just a minute, please, Ma'am. Officer Fox has not testified in this case."

Ms.Benson: "Officer Fox will testify for the Defense."

The Court: "Well, I don't know whether he will or not, but he hasn't testified to now.. But let me ask you what you are offering these papers to show, please, Ma'am?"

Ms.Benson: "I am offering those papers, Your Honor, to show that, excuse me, one, this one here, this letter was on the front seat, and



and it was a letter to a lawyer that I wrote on that day and hand carried. The troopers read this. So I am offering it to show that they read my mail, my communications with my attorney, which was privileged. That's one thing. The other thing that I am offering these documents to show is that this is the type thing I had in my briefcase, and they read that, too, And they insisted on searching me. And then in addition to that, well, I just--"

Court: "Wait, wait, Ms. Benson. Let me see if I can understand, Ma'am. We are not getting anywhere now. Are you trying to offer it to show that those were the documents you had in your vehicle, and that these gentlemen had access to them, and did view them?" Is that what you are offering it for?"

Ms. Benson: "That they read the. That's right."

Court: "Well, I don't know whether they read them. You say they read them. I don't know."

Ms. Benson: "Well, I am testifying that they read them." underscore added.



The Court: "Well, now, you may testify they saw them, now, whether they read them or not--"

Ms. Benson: "I saw them reading them."

The Court: "Well, I can look at a document and still not be reading it."

Ms. Benson: "Well, Your Honor--"

The Court: "Wait. I am not going to argue with you. Ma'am. If you are offering it to show those were the documents you had in your vehicle and that the officers viewed the, the objection is overruled and they are ordered received."



Jury excused from the Court room.

The Court: All right. Ms. Benson. Do you have any objections to the instructions given by the Court to the Jury?"

Ms.Benson: "No, Your Honor. Other than the discussions we had in, when you talked with us earlier this morning. I have no other."

The Court: "Well, Ms. Benson, Let me explain to you again, as I explained to you twice. If you have any objections to the charge, now you must do it or you waive it...So if you want to object ot the charge, you better do it now or it will not be considered by the Fifth Circuit in the event of an appeal.

Ms.Benson: "Okay. Your Honor, I shall do it now. At Page Number 6--Well, that was changed earlier. I did have an exception at Number two of the interrogatories, I had suggested adding after the Fourth line, and with accordance, and in accordance with proper procedure and reasonable grounds for belief. I believe I had also specified that



I would have liked to have seen a specific charge on the defendants having read my private papers. So I took an exception to that. And then I took an exception to the fact there were no specific charges as to Officer Odum (Hoffpauier) having made a secret tape at a point in time when he elected, leaving out the provocation by Officer Odum and by himself, Officer Hoffpauier, during his first entrance. And that I, of course, was not told about the tape."

The Court: "Any other objections."

Ms. Benson: "I think that was it, Your Honor. The corrections, a few little words we added in your charges, is that to be included now? I noticed you charged them accordingly, so that is not to be included now, like we added the word car, we removed the word house, and put the word car. I need not go into that at the moment, because you did change it."

The Court: "All right. Let the objections be noted on the record. The objections are overruled, because the Court is entirely satisfied.."



At TR 736 (Jury excused from the Courtroom to begin deliberation at 2:35 p.m.)

The Court: "Let me just say, ladies and gentlemen, that I am informed of the weather conditions outside, and that I am going to exercise the authority granted to me if I feel that the weather conditions are bad enough that I think it might be appropriate to send the Jury home, I will do so...."

Jury returned to the Courtroom at 3:55 p.m.)
(Proceedings in Open Court, Jury present.)

The Court: "Good afternoon, Ladies and Gentlemen. Mr. Ivey, I have your jury note which simply says, need information as to what options are available to State Police when stopping possible traffic violator. By the way, let the record reflect the plaintiff and defendants are present in Court. The only thing I have to tell you is that you are going to have to refresh your memory as to the evidence in this case. There was evidence that answers that question. And I can't repeat it. I distinctly remember the evidence.



....I am not going to comment on it. So I ask that you--Let me, before I ask you to retire, Let me tell you what I am thinking about. The weather is certainly not very good right now. It is not going to get any better, and I am concerned about we have some jurors from out of town...but I also have to think of the safety of the jurors. So let me ask this, betting back to the question that was submitted. Do any of you, without saying what you heard, or anything, do any of you recall hearing testimony about these options? If so do, raise your hand. Okay. Well, discuss it with your fellow jurors. There are enough of you that distinctly recall what was said. And I think you will get the answer. I am sure you will get the answer, because I remember....so I ask that you retire, and if you feel that you are not making progress in the next ten minutes or so, and you would rather, because of the safety of the jurors, go home, we will work that out. And by the way, I understand, Mr.Ivey, you may be in a State Court Monday..."



So with that, Court stands in recess.

Ms. Benson: "Your Honor...May I ask you about something?"

Court: "Surely. Let's get it back on record."

Ms. Benson: "There is something, bothering me. Your Honor had made the remark that you would write a report and seal it, and I am not a lawyer. I don't know how those things work. So I don't know what my options are. I do know that in Louisiana I have been the victim of secret processes for many years.

Court: "Ma'am, I don't know that."

Ms. Benson: "But I know that."

The Court: "Well, you say you know that, that's fine, but I don't know that."

Ms. Benson: "For those reasons, if I am allowed to, and most respectfully, I would like to make an exception to any--"

The Court: "Ma'am, I have it on the record... but I have ordered it sealed until further orders of this court, or in the event of an appeal. Now, if you want to file a Freedom of Information Charge, file it. But you are going to get the Fifth Circuit to make me give it to you